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92d Congress
1st Session } JOINT COMMITTEE PRINT

# COMPILATION OF SELECTED PUBLIC HEALTH LAWS

## VOLUME I

INCLUDING PARTICULARLY IN THIS VOLUME:

THE PUBLIC HEALTH SERVICE ACT
DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT
THE COMMUNITY MENTAL HEALTH CENTERS ACT
THE CONTROLLED SUBSTANCES ACT

PREPARED FOR THE USE OF THE

HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

AND THE

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE



MARCH 1971

Printed for the use of the House Committee on Interstate and Foreign Commerce and the Senate Committee on Labor and Public Welfare

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## FOREWORD

This compilation has been prepared for use by the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce in reviewing and evaluating current legislative proposals in the field of public health, which is one of the major areas within each committee's legislative jurisdiction. Since many legislative proposals in this field are in the form of proposed amendments to the Public Health Service Act or to related public health laws, it is necessary to have in readily available form an up-to-date compilation of these basic health laws. Such a compilation should also be useful to other congressional committees with related legislative jurisdictions, as well as to various public and voluntary agencies and groups affected by or interested in Federal legislation in this field.

Included in the compilation are the Public Health Service Act, which is the most comprehensive Federal law relating to public health; the Developmental Disabilities Services and Facilities Construction Act; the Community Mental Health Centers Act; the Clean Air Act; the Solid Waste Disposal Act; the Narcotic Addict Rehabilitation Act of 1966; the Controlled Substances Act; the Federal Food, Drug, and Cosmetic Act; the Federal Hazardous Substances Act; the Fair Packaging and Labeling Act; and several other laws pertaining to Indian health, to mental retardation, and to the health and safety of the consumer. In addition, the compilation includes Reorganization Plan No. 1 of 1953 and Reorganization Plan No. 3 of 1966, which effected major changes in the administrative structure and distribution of health functions within the Department of Health, Education, and Welfare; Reorganization Plan No. 1 of 1968, relating to administration of laws on drug abuse; and Reorganization Plan No. 3 of 1970 which created the Environmental Protection Agency. In each case, the statutory provisions as printed in this compilation include all amendments enacted through the 91st Congress. Thus, they represent statutory provisions in effect in January of 1971.

# PUBLIC HEALTH SERVICE ACT, AS AMENDED

# PUBLIC HEALTH SERVICE ACT, AS AMENDED

**Note.**—Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General, and other officers of the Public Health Service, to the Secretary of Health, Education, and Welfare. While the language of this Act was not formally amended by the provisions of Plan No. 3, its provisions should be read in the light of this transfer of statutory functions.

## TITLE I—SHORT TITLE AND DEFINITIONS

### SHORT TITLE

SEC. 1.[1] Titles I to X inclusive, of this Act may be cited as the "Public Health Service Act". 42 U.S.C. 201 Note

### DEFINITIONS

SEC. 2. When used in this Act— 42 U.S.C. 201

(a) The term "Service" means the Public Health Service;

(b) The term "Surgeon General" means the Surgeon General of the Public Health Service;

(c)[2] Unless the context otherwise requires, the term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Secretary;

(e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f)[3] The term "State" means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that as used in section 361(d) such term means a State, or the District of Columbia;

(g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands.

(h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;

(i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water,

[1] Sec. 1 was amended by sec. 3(a) of P.L. 89–239, to add title IX to the eight titles of the P.H.S. Act, and further amended by sec. 6 of P.L. 91–572 to add title X.

[2] Subsec. 2 (c) amended by secs. 11 and 12(b) of P.L. 91–212.

[3] Subsec. 2(f) amended by subsec. 31(a) and subsec. 47(d) of P.L. 86–70, effective January 3, 1959; and further amended by subsec. 29(a) and subsec. 47(f) of P.L. 86–624, effective August 21, 1959.

exclusive of aircraft and amphibious contrivances;

(j)[4] The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts and preparations; opiates (as defined in section 3228(f) of the Internal Revenue Code);

(k)[5] The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l)[6] The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m)[6] The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n)[7] The term "heart diseases" means diseases of the heart and circulation;

(o)[7] The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth; and

(p)[7] The term "uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey.

(q)[8] The term "drug dependent person" means a person who is using a controlled substance (as defined in section 102 of the Controlled Substances Act) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.

[4] Subsec. (j) was amended by sec. 3 of the National Mental Health Act (P.L. 487, 79th Congress) and was further amended by P.L. 425, 80th Congress.

[5] Subsec. (k) was amended by sec. 3 of the National Mental Health Act, P.L. 487, 79th Congress.

[6] Subsecs. (l) and (m) were added by sec. 3 of the National Mental Health Act, P.L. 487, 79th Congress.

[7] Subsecs. (n) and (o) amended, and subsec. (p) added by sec. 5 of P.H.S. Commissioned Corps Personnel Act of 1960 (P.L. 86–415).

[8] Subsec. (q) added by sec. 2(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91–513).

# TITLE II—ADMINISTRATION

## PUBLIC HEALTH SERVICE

SEC. 201. The Public Health Service in the Department of Health, Education, and Welfare shall be administered by the Surgeon General under the supervision and direction of the Secretary. 42 U.S.C. 202

## ORGANIZATION

SEC. 202.[1] The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes [2] of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes [2] of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections and other units as he may find necessary; and from time to time, abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes [2] of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient. 42 U.S.C. 203

## COMMISSIONED CORPS

SEC. 203. There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to the Classification Act of 1923,[3] as amended. Commis- 42 U.S.C. 204

[1] The organizational units specified in this section were all abolished as *statutory* entities by Reorganization Plan No. 3 of 1966 which is printed in full in the Appendix.

[2] Sec. 202 was amended by sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) by adding an "s" to Institute.

[3] Civil service and classification laws are now codified in title 5, United States Code, enacted into positive law by P.L. 89–554.

sioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps.[4]

SURGEON GENERAL

42 U.S.C. 205

SEC. 204. The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General.

DEPUTY SURGEON GENERAL AND ASSISTANT SURGEONS GENERAL

42 U.S.C. 206

SEC. 205 [5] (a) The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b)[6] The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes [6] of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c)[7] The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 204 and subsections (a) and (b) of this section, shall not on any day

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[4] Sec. 2 of P.L. 425, 80th Congress amended sec. 203 by deleting the last sentence thereof.

[5] Reorganization Plan No. 3 of 1966 (printed in the Appendix of this compilation) abolished as *statutory* positions several of the positions enumerated in this section—Deputy Surgeon General, Director of the National Institutes of Health, Chief of the Bureau of State Services, Chief of the Bureau of Medical Services.

[6] Subsec. (b) was amended by sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) by adding an "s" to Institute.

[7] Subsec. (c) added by sec. 3 of P.L. 425, 80th Congress.

exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.

(d)[8] The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General.

GRADES, RANKS, AND TITLES OF THE COMMISSIONED CORPS

SEC. 206. (a)[9] The Surgeon General during the period of his appointment as such, shall be of the same grade as the Surgeon General of the Army; the Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with the grade of major general; and the Chief Dental Officer, while assigned as such, shall have the grade as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Secretary after considering the importance of the duties to be performed: *Provided*, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 205 or pursuant to subsection (c) of such section. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows: 42 U.S.C. 207

(1) Officers of the director grade—colonel;

(2) Officers of the senior grade—lieutenant colonel;

(3) Officers of the full grade—major;

(4) Officers of the senior assistant grade—captain;

(5) Officers of the assistant grade—first lieutenant; and

(6) Officers of the junior assistant grade—second lieutenant.

(b) The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon and (6) senior assistant surgeon.

[8] Sec. 3 of P.L. 425, 80th Congress, redesignated this subsection, which was formerly subsec. (e), as subsec. (d).
[9] Subsec. 206(a) amended by sec. 11 of P.L. 87-649.

The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix "Reserve".

(c)[10] Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

(d)[10] Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Secretary shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this Act) any officer to be separated from the Service or reduced in grade.

APPOINTMENT OF PERSONNEL

42 U.S.C. 209

SEC. 207.[11] (a)(1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2)[12] Original appointments to the Reserve Corps may

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[10] Subsecs. (c) and (d) were added by sec. 4(b) of P.L. 425, 80th Congress.

[11] Sec. 5(a) of P.L. 425, 80th Congress repealed sec. 207 and redesignated the former sec. 208 as sec. 207.

[12] The second sentence of par. (2) of subsec. (a) was amended by sec. 3(c)(1) of P.L. 492, 84th Congress, by striking out "a period of not more than five years", and inserting in lieu thereof "an indefinite period". Note, however, that "this shall not affect the term of the commission of any

be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.

(3) [13] No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless (A) he has had a number of years of active service (as defined in section 211(d)) equal to the number of years by which his age exceeds forty-four, or (B) the Surgeon General determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or (C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.

(b)[14] (1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate.

(2) In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—

(A)(i) was on active duty in the Reserve Corps on July 1, 1960, (ii) was on such active duty continuously for not less than one year immediately

officer in the Reserve Corps in effect on the date of such enactment unless such officer consents in writing to the extension of his commission for an indefinite period. In which event his commission shall be so extended without necessity of a new appointment" (sec. 3(c)(2) of P.L. 492, 84th Congress).

[13] Par. (3) was added by sec. 2 of P.L. 86–415.

[14] Sec. 207(b) was amended by sec. 3 of P.L. 86–415 by inserting (1) after (b) and by striking out the last sentence and inserting in lieu thereof two new pars. (2) and (3).

prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1962; or

(B) does not come within clause (A) (i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1960, of more than three and one-half years prior to applying for such appointment.

(3) No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

(c)[15] Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Secretary under the seal of the Department of Health, Education, and Welfare.

(d) (1)[15] For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps and any person appointed under subsection (b), shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of basic pay, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b), shall, in lieu of the credit provided in paragraph (1), be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1), plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect

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[15] Subsecs. (c) and (d) were added by sec. 5(d) of P.L. 425, 80th Congress. Pars. (1) and (2) of subsec. (d) were amended by sec. 1(f) of the Career Compensation Act of 1949.

on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

(e)[16] (1) A former officer of the Regular Corps may, if application for appointment is made within two years after the date of the termination of his prior commission in the Regular Corps, be reappointed to the Regular Corps without examination, except as the Surgeon General may otherwise prescribe, and without regard to the numerical limitations of subsection (b).

(2) Reappointments pursuant to this subsection may be made to the permanent grade held by the former officer at the time of the termination of his prior commission, or to the next higher grade if such officer meets the eligibility requirements prescribed by regulation for original appointment to such higher grade. For purposes of pay, promotion, and seniority in grade, such reappointed officer shall receive the credits for service to which he would be entitled if such appointment were an original appointment, but in no event less than the credits he held at the time his prior commission was terminated, except that if such officer is reappointed to the next higher grade he shall receive no credit for seniority in grade.

(3) No former officer shall be reappointed pursuant to this subsection unless he shall meet such standards as the Secretary may prescribe.

(f) [16] In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws and their compensation may be fixed without regard to the Classification Act of 1923, as amended.[17]

(g)[16] In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws and compensated without regard to the Classification Act of 1923,[17] as amended, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

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[16] New subsec. (e) was added, and the former subsecs. (e) and (f) were redesignated as subsecs. (f) and (g), respectively, by sec. 3(b) of P.L. 492, 84th Congress.

[17] See footnote 3 on p. 3.

(h)[18] Persons who are not citizens may be employed as consultants pursuant to subsection (e) and may be appointed to fellowships pursuant to subsection (f). Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

(i)[18] The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Secretary, and may be made effective as of the date on which such officer or employee enters upon duty.

PAY AND ALLOWANCES

42 U.S.C. 210(b)

SEC. 208.[19] (a) Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

(b) [19] Commissioned officers on active duty, and retired officers entitled to retired pay pursuant to section 210(g)(3), section 211 or section 221(a), shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.[20]

(c)[21] Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this Act, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary shall be entitled to receive compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule, including traveltime; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

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[18] Subsecs. (h) and (i) were redesignated as such by sec. 3(b) of P.L. 492, 84th Congress. These subsections were formerly subsecs. (g) and (h).

[19] Sec. 208, formerly sec. 209, was so redesignated by sec. 5(c) of P.L. 425, 80th Congress. Subsec. (a) was amended, former subsecs. (b) and (d) repealed, and former subsecs. (c), (e), and (f) were redesignated (b), (c), and (d), respectively, by sec. 521(b) of the Career Compensation Act of 1949.

[20] Subsec. 208(b) was amended by sec. 11 of P.L. 87–649.

[21] Subsec. (c), formerly subsec. (e), was amended by sec. 5(a) of the National Mental Health Act (P.L. 487, 79th Congress), sec. 4(d) of the National Heart Act (P.L. 655, 80th Congress), sec. 4(d) of the National Dental Research Act (P.L. 755, 80th Congress), and sec. 3(e) of P.L. 692, 81st Congress, and further amended by sec. 601(b)(1) of P.L. 91–515.

(d)[19] Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(e)[22] Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds require intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.

(f) Individuals appointed under section 207(f) shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.[23] [24]

(g)[25] The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional, and administrative personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule of the Classification Act of 1949, as amended, nor more than (1) the highest rate of grade 18 of the General Schedule of such Act, or (2) in the case of two such positions, the rate specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313); and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without

42 U.S.C. 210(g)

[22] Subsec. (e), formerly subsec. (g), was so redesignated and was amended by sec. 521(b) of the Career Compensation Act of 1949.

[23] Sec. 5(h) of P.L. 425, 80th Congress, amended former subsec. (h) by changing "section 208(d)" to "section 207(f)". Subsec. (h) was redesignated (f) by sec. 521 (b) of the Career Compensation Act of 1949.

[24] Sec. 3 of the Act of April 27, 1956 (P.L. 492, 84th Congress), renumbered sec. 207(f) to read sec. 207(g). By inadvertence, the reference in sec. 208(f) was not changed.

[25] Sec. 208(g) amended by sec. 501 of P.L. 90–574.

competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

PROFESSIONAL CATEGORIES

42 U.S.C. 210b

SEC. 209.[26] (a) For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 207(a)(1) or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

(b) Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a). Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

(c) Within the limits fixed by the Secretary in regulations under section 206(d) for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

(d) The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including, in the case of the director grade, officers holding such grade in accordance with section 206(c)) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 206(c) shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 205(c), the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant

[26] Sec. 209 was added by sec. 5(1) of P.L. 425, 80th Congress.

to section 207, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 206(d); and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one.

PROMOTIONS AND SEPARATION OF COMMISSIONED OFFICERS IN THE REGULAR CORPS

SEC. 210. (a) Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President. 42 U.S.C. 211

(b) The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade".

(c) Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Officers of the Regular Corps, found pursuant to subsection (c) to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2)[27] Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b)) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Officers in a professional category of the Regular Corps, found pursuant to subsection (c) to be qualified may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e)), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g)[28] If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated

[27] Subsec. 210(d)(2) was amended by sec. 4(a) of P.L. 492, 84th Congress.

[28] Subsec. (g) amended by sec. 11 of P.L. 87–649.

from the Service and paid six months' basic pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's basic pay and allowances;

(3)[29] if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of 2½ per centum of the basic pay of the permanent grade held by him at the time of retirement for each year.

(h) If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) (1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2), by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the

[29] Par. (3) was amended by sec. 5(c) of P.L. 86–415.

Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under section 209(c) for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under section 209(c)) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by the Act of December 11, 1926, as amended (5 U.S.C. 21a).[30]

[30] Sec. 210 was amended by sec. 6(a) of P.L. 425, 80th Congress.

RETIREMENT OF COMMISSIONED OFFICERS

SEC. 211.[31] (a) (1) A commissioned officer of the Service shall be retired on the first day of the month following the month in which he attains the age of sixty-four years. 42 U.S.C. 212

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) A commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of 2½ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d)) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship; plus

(iii)[32] the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37, United States Code, on any date before June 1, 1958;

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[31] Sec. 211 amended by sec. 4 and subsec 8 (b) and (c) of P.L. 86–415 became effective on April 8, 1960, in the case of commissioned officers of the P.H.S. Regular Corps, and on July 1, 1960, in the case of commissioned officers of the P.H.S. Reserve Corps. An officer in the Regular Corps on active duty on April 8, 1960, may be retired and have his retired pay computed under sec. 211 of the P.H.S. Act, as amended, by P.L. 86–415, or if he so elects, under such section as in effect prior to April 8, 1960.

[32] Added by P.L. 91–253.

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e)), and who does not use, for purposes of a retirement annuity under the Civil Service Retirement Act, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(b) For purposes of subsection (a), the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a), be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) The term "active service", as used in subsection (a), includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.

(e) For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his re-

tired pay pursuant to section 210(g)(3) or paragraph (4) of subsection (a) of this section, a part of a year of active service of six months or more shall be counted as a whole year and a part of year of active service which is less than six months shall be disregarded.

(f)[33] For purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

MILITARY BENEFITS

SEC. 212.[34] (a) Except as provided in subsection (b), commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers— 42 U.S.C. 213

(1) in time of war;

(2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or

(3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

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[33] The limitation under subsec. (f) of sec. 211 of the Public Health Service Act, as amended by sec. 4 and subsec. 8(d) of P.L. 86–415, on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960.

[34] Sec. 212 was amended by sec. 501(b)(1) of P.L. 881, 84th Congress. For application of the provisions of this section, see also Miscellaneous Provisions, P.L. 881, 84th Congress.

(d) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 217 of the Social Security Act.

ALLOWANCES FOR UNIFORMS

42 U.S.C. 214

SEC. 213.[35] * * *

DETAIL OF PERSONNEL

42 U.S.C. 215

SEC. 214. (a) The Secretary is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriation and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or political subdivision thereof in work related to the functions of the Service.

(c) The Surgeon General may detail personnel of the Service to nonprofit educational research, or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Personnel detailed under subsections (b) and (c) shall be paid from applicable appropriations of the Service except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 212.

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[35] Sec. 213, deleted by sec. 14 of P.L. 87–649; provisions now contained in title 37, U.S.C. 415(d).

REGULATIONS

SEC. 215. (a) The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, title, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service. 42 U.S.C. 216

(b) The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) No regulations relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.

USE OF SERVICE IN TIME OF WAR OR EMERGENCY

SEC. 216.[36] In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constitute a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice, and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief. 42 U.S.C. 217

NATIONAL ADVISORY COUNCILS

SEC. 217.[37] (a) The National Advisory Health Council, the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the 42 U.S.C. 218

[36] Sec. 216 amended by P.L. 492, 84th Congress.
[37] Sec. 217(a) was amended by sec. 401(a) of P.L. 91–616.

Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Council on Alcoholic Abuse and Alcoholism,[38] the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of cancer, psychiatric disorders, alcohol abuse and alcoholism, heart diseases, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term; (2) the terms of the members (other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism) first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment; and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after the date of enactment of this clause, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b)[39] The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils or committees established under this Act on cancer, mental health,

[38] Reference should be to National Advisory Council on Alcohol Abuse and Alcoholism.

[39] Sec. 217(b) amended by sec. 601(a)(1) of P.L. 91–515, and further amended by sec. 401(b) of P.L. 91–616.

alcohol abuse and alcoholism, heart, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommend to the Surgeon General, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Surgeon General, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public and private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Surgeon General, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of mental health; and the Surgeon General shall recommend acceptance of any such gifts only after consultation with the Council.[40]

(d)[41] The National Advisory Council on Alcohol Abuse and Alcoholism shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Secretary in the field of alcohol abuse and alcoholism. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of alcohol

[40] Former subsecs. (c), (d), (f), and (g) were repealed and subsec. (e) redesignated subsec. (c), effective October 1, 1950, by sec. 3(c), P.L. 692, 81st Congress.

[41] Sec. 217(d) added by sec. 401(c) of P.L. 91–616.

abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

TRAINING OF OFFICERS

42 U.S.C. 218a

SEC. 218.[42] (a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty while attending any Federal or non-Federal educational institution or training program and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees are paid pursuant to subsection (a) while attending an educational institution or training program for a period in excess of thirty days shall be obligated to reimburse the Service for such tuition and fees if thereafter he voluntarily leaves the Service within whichever of the following periods of active service is the greater; (1) six months, or (2) twice the period of such attendance but in no event more than two years. Such subsequent period of service shall commence upon the cessation of such attendance and of any further continuous period of training duty for which no tuition and fees are paid by the Service and which is part of the officer's prescribed formal training program, whether such further training is at a Service facility or otherwise. The Surgeon General may waive, in whole or in part, any reimbursement which may be required by this subsection upon a determination that such reimbursement would be inequitable or would not be in the public interest.

ANNUAL AND SICK LEAVE

42 U.S.C. 210–1

SEC. 219. (a) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided*, That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b)[43] * * *

(c) Except in cases of emergency, no annual leave shall be granted to an officer described in subsection (a) between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and

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[42] Sec. 218 amended by sec. 6, P.L. 492, 84th Congress.
[43] Sec. 219(b) deleted by sec. 14 of P.L. 87–649; present provisions contained in title 37, U.S.C. 503(b).

the effective date of such retirement, separation or release from active duty.[44]

(d) For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year.

PROMOTION CREDIT—ASSISTANT GRADE

SEC. 220.[45] Any medical officer of the Regular Corps of the Public Health Service who— 42 U.S.C. 211c

(1) (A) was appointed to the assistant grade in the Regular Corps and whose service in such Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment,

shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

SEC. 221.[46] (a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10, United States Code: 42 U.S.C. 213a (a) (1)–(9)

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1374, 1375, and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Annuities Based on Retired or Retainer Pay.

[44] Sec. 219(c), beginning with second sentence until end of paragraph—all deleted by sec. 14 of P.L. 87–649; present provisions contained in title 37, U.S.C. 501(g).

[45] Sec. 220 was added by sec. 3 of P.L. 497, 84th Congress.

[46] Sec. 221 amended by P.L. 88–431, and further amended by sec. 3(b) of P.L. 89–538.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 212 of this Act.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposit of savings.

(b) The authority vested by title 10, United States Code, in the "military departments" or "the Secretary concerned" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee.

ADVISORY COUNCILS OR COMMITTEES

SEC. 222.[47] (a) The Secretary may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions.

(b) Members of any advisory council or committee appointed under this section who are not regular full-time employees of the United States shall, while attending meetings or conferences of such council or committee or otherwise engaged on business of such council or committee receive compensation and allowances as provided in section 208(c) for members of national advisory councils established under this Act.

42 U.S.C. 210

(c) Upon appointment of any such council or committee, the Surgeon General, with the approval of the Secretary, may transfer such of the functions of the National Advisory Health Council relating to grants-in-aid for research or training projects or programs in the areas or fields with which such council or committee is concerned as he determines to be appropriate.

[47] Sec. 222 added by sec. 3 of P.L. 87–838, and amended by sec. 601 of P.L. 91–515.

VOLUNTEER SERVICES

SEC. 223.[48] Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health, Education, and Welfare designated by him, for use in the operation of any health care facility or in the provision of health care.

DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

SEC. 223.[49] (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the

[48] Sec. 223 added by sec. 6 of P.L. 90–174.
[49] Additional sec. 223 added by sec. 4 of P.L. 91–623.

merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

(f) The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.

# TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

## Part A—Research and Investigation

### IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to— 42 U.S.C. 241

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d)[1] Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research or research training projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council, and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make,

[1] Subsec. 301(d) amended by P.L. 87–838.

upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research and research training programs: *Provided*, That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may determine, of the amounts provided for grants for research or research training projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research and research training program grants-in-aid for such fiscal year;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(g) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields; and

(h)[2] Enter into contracts during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(i)[3] Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendation of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

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[2] Subsec. (h) established by P.L. 89–115 was amended by sec. 9 of P.L. 90–174, and further amended by sec. 292 of P.L. 91–515.

[3] Subsec. 301(h) was redesignated as subsec. 301(i), and a new subsec. (h) was added by sec. 3 of P.L. 89–115.

NARCOTICS

42 U.S.C. 242

SEC. 302.[4] (a) In carrying out the purposes of section 301 with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act and Controlled Substances Import and Export Act, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts.

Report to Attorney General

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

MENTAL HEALTH

42 U.S.C. 242a

SEC. 303.[5] (a)[6] In carrying out the purposes of section 301 with respect to mental health, the Surgeon General is authorized—

(1) to provide training and instruction and to establish and maintain traineeships, in accordance with the provisions of section 433(a);

(2) to make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for devel-

[4] Sec. 302(a) amended by sec. 701(j) of P.L. 91–513.
[5] Sec. 303 was amended by sec. 501 of P.L. 911, 84th Congress.
[6] Sec. 303(a) was amended by sec. 3(a) of P.L. 91–513.

oping and establishing improved methods of operations and administration of such institutions.

The Secretary may authorize persons engaged in research on the use and effect of drugs to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

(b) Grants under paragraph (2) of subsection (a) may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary.

RESEARCH AND DEMONSTRATIONS RELATING TO HEALTH FACILITIES AND SERVICES

SEC. 304.[7] (a)(1) The Secretary is authorized—

(A) to make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research, experiments, or demonstrations (and related training), and

(B) to make contracts with public or private agencies, institutions, or organizations for the conduct of research, experiments, or demonstrations (and related training),

relating to the development, utilization, quality, organization, and financing of services, facilities, and resources of hospitals, facilities for long-term care, or other medical facilities (including, for purposes of this section, facilities for the mentally retarded, as defined in the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963), agencies, institutions, or organizations or to development of new methods or improvement of existing methods of organization, delivery, or financing of health services, including, among others—

(i) projects for the construction of units of hospitals, facilities for long-term care, or other medical

[7] Sec. 304 amended by sec. 3(a) of P.L. 90–174. Subsec. 3(b) of P.L. 90–174 provides that any sums appropriated for the fiscal year ending June 30, 1968, for carrying out secs. 624 and 314(e)(3) which remain unobligated on the date of enactment of this Act shall be available for carrying out sec. 304 of the Public Health Service Act, and the total of such sums (and any portion of the appropriations for such year for such purpose obligated prior to such date of enactment in carrying out such sections) shall be deducted from the authorization for such year contained in such sec. 304. Sec. 304 further amended by secs. 201, 202, and 203 of P.L. 91–515.

facilities which involve experimental architectural designs or functional layout or use of new materials or new methods of construction, the efficiency of which can be tested and evaluated, or which involve the demonstration of such efficiency, particularly projects which also involve research, experiments, or demonstrations relating to delivery of health services, and

(ii) projects for development and testing of new equipment and systems, including automated equipment, and other new technology systems or concepts for the delivery of health services, and

(iii) projects for research and demonstration in new careers in health manpower and new ways of educating and utilizing health manpower, and

(iv) projects for research, experiments, and demonstrations dealing with the effective combination or coordination of public, private, or combined public-private methods or systems for the delivery of health services at regional, State, or local levels, and

(v) projects for research and demonstrations in the provision of home health services.

(2) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this subsection, a grant or contract under this subsection with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, experimental, or demonstration purposes. The provisions of clause (5) of the third sentence of section 605(a) and such other conditions as the Secretary may determine shall apply with respect to grants or contracts under this subsection for projects for construction of a facility or for acquisition of equipment.

Cost limitation

78 Stat. 454
42 U.S.C. 291e

(3) (A) Payments of any grants or under any contracts under this subsection may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

(B) The amounts otherwise payable to any person under a grant or contract made under this subsection shall be reduced by—

(i) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(ii) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such

project, if such officer or employee was assigned or detailed by the Secretary to perform such services, but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

SYSTEMS ANALYSIS OF NATIONAL HEALTH CARE PLANS

(b)[7](1)(A) The Secretary shall develop, through utilization of the systems analysis method, plans for health care systems designed adequately to meet the health needs of the American people. For purposes of the preceding sentence, the systems analysis method means the analytical method by which various means of obtaining a desired result or goal is associated with the costs and benefits involved.

(B) The Secretary shall complete the development of the plans referred to in subparagraph (A), within such period as may be necessary to enable him to submit to the Congress not later than September 30, 1971, a report thereon which shall describe each plan so developed in terms of—

(i) the number of people who would be covered under the plan;

(ii) the kind and type of health care which would be covered under the plan;

(iii) the cost involved in carrying out the plan and how such costs would be financed;

(iv) the number of additional physicians and other health care personnel and the number and type of health care facilities needed to enable the plan to become fully effective;

(v) the new and improved methods, if any, of delivery of health care services which would be developed in order to effectuate the plan;

(vi) the accessibility of the benefits of such plan to various socioeconomic classes of persons;

(vii) the relative effectiveness and efficiency of such plan as compared to existing means of financing and delivering health care; and

(viii) the legislative, administrative, and other actions which would be necessary to implement the plan.

(C) In order to assure that the advice and service of experts in the various fields concerned will be obtained in the plans authorized by this paragraph and that the purposes of this paragraph will fully be carried out—

[7] Sec. 304 amended by sec. 3(a) of P.L. 90–174. Subsec. 3(b) of P.L. 90–174 provides that any sums appropriated for the fiscal year ending June 30, 1968, for carrying out secs. 624 and 314(e)(3) which remain unobligated on the date of enactment of this Act shall be available for carrying out sec. 304 of the Public Health Service Act, and the total of such sums (and any portion of the appropriations for such year for such purpose obligated prior to such date of enactment in carrying out such sections) shall be deducted from the authorization for such year contained in such sec. 304. Sec. 304 further amended by secs. 201, 202, and 203 of P.L. 91–515.

(i) the Secretary shall utilize, whenever appropriate, personnel from the various agencies, bureaus, and other departmental subdivisions of the Department of Health, Education, and Welfare;

(ii) the Secretary is authorized, with the consent of the head of the department or agency involved, to utilize (on a reimbursable basis) the personnel and other resources of other departments and agencies of the Federal Government; and

(iii) the Secretary is authorized to consult with appropriate State or local public agencies, private organizations, and individuals.

COST AND COVERAGE REPORT ON EXISTING LEGISLATIVE PROPOSALS

(2)(A) The Secretary shall, in accordance with this paragraph, conduct a study of each legislative proposal which is introduced in the Senate or the House of Representatives during the Ninety-first Congress, and which undertakes to establish a national health insurance plan or similar plan designed to meet the needs of health insurance or for health services of all or the overwhelming majority of the people of the United States.

(B) In conducting such study with respect to each such legislative proposal, the Secretary shall evaluate and analyze such proposal with a view to determining—

(i) the costs of carrying out the proposal; and

(ii) the adequacy of the proposal in terms of (I) the portion of the population covered by the proposal, (II) the type health care provided, paid for, or insured against under the proposal, (III) whether and if so, to what extent, the proposal provides for the development of new and improved methods for the delivery of health care and services.

(C) Not later than March 31, 1971, the Secretary shall submit to the Congress a report on each legislative proposal which he has been directed to study under this paragraph, together with an analysis and evaluation of such proposal.

(c)[8, 9](1) There are authorized to be appropriated for payment of grants or under contracts under subsection (a), and for purposes of carrying out the provisions of subsection (b), $71,000,000 for the fiscal year ending June 30, 1971 (of which not less than $2,000,000 shall be available only for purposes of carrying out the provisions of subsection (b)), $82,000,000 for the fiscal year ending June 30, 1972, and $94,000,000 for the fiscal year ending June 30, 1973.

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[8] Sec. 304(d) redesignated as sec. 304(c) and amended by sec. 201(c) of P.L. 91–515, effective only with respect to fiscal years ending after 6/30/70.

[9] Effective with respect to appropriations for fiscal year beginning after 6/30/70, sec. 304(d) amended by deleting the last clause, by sec. 401(b)(1)(A) of P.L. 91–296.

(2) In addition to the funds authorized to be appropriated under paragraph (1) to carry out the provisions of subsection (b) there are hereby authorized to be appropriated to carry out such provisions for each fiscal year such sums as may be necessary.

THE NATIONAL HEALTH SURVEYS AND STUDIES

42 U.S.C. 242c

SEC. 305.[10] (a) The Surgeon General is authorized, (1) to make, by sampling or other appropriate means, surveys and special studies of the population of the United States to determine the extent of illness and disability and related information such as: (A) the number, age, sex, ability to work or engage in other activities, and occupation or activities of persons afflicted with chronic or other disease or injury or handicapping condition; (B) the type of disease or injury or handicapping condition of each person so afflicted; (C) the length of time that each such person has been prevented from carrying on his occupation or activities; (D) the amounts and types of services received for or because of such conditions; (E) the economic and other impacts of such conditions; (F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution; and (2) in connection therewith, to develop and test new or improved methods for obtaining current data on illness and disability and related information. No information obtained in accordance with this paragraph may be used for any purpose other than the statistical purposes for which it was supplied except pursuant to regulations of the Secretary; nor may any such information be published if the particular establishment or person supplying it is identifiable except with the consent of such establishment or person.

(b) The Secretary is authorized, directly or by contract, to undertake research, development, demonstration, and evaluation, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels.

(c) The Surgeon General is authorized, at appropriate intervals, to make available, through publications and otherwise, to any interested governmental or other public or private agencies, organizations, or groups, or to the public, the results of surveys or studies made pursuant to subsection (a).

(d) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $25,000,000 for the fiscal year ending June 30, 1973.

[10] Sec. 305 added by sec. 3 of P.L. 652, 84th Congress and amended by sec. 210 of P.L. 91–515.

(e) To assist in carrying out the provisions of this section the Surgeon General is authorized and directed to cooperate and consult with the Departments of Commerce and Labor and any other interested Federal Departments or agencies and with State health departments. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes, as amended, of any appropriate State or other public agency, and may, without regard to section 3709 of the Revised Statutes, as amended, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group, or such individual and the Secretary of Health, Education, and Welfare. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

TRAINEESHIPS FOR PROFESSIONAL PUBLIC HEALTH PERSONNEL

SEC. 306. (a) [11] There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next twelve fiscal years, such sums as the Congress may determine, but not to exceed $4,500,000 for the fiscal year ending June 30, 1965, $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, $10,000,000 each for the fiscal year ending June 3, 1968, and the two succeeding fiscal years, $14,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $18,000,000 for the fiscal year ending June 30, 1973 to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel. 42 U.S.C. 242d

(b) Traineeships under this section may be awarded by the Surgeon General either (1) directly to individuals whose applications for admission have been accepted by the public or other nonprofit institutions providing the training, or (2) through grants to such institutions.

(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments to institutions may be used only for traineeships, and payments under this section with respect to any traineeship shall be limited to such amounts as the Surgeon General finds necessary to cover the cost of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainee.

[11] Sec. 306(a) amended by sec. 302(b) of P.L. 90–490 and by sec. 3 of P.L. 91–208.

(d)[12] The Surgeon General shall appoint an expert advisory committee, composed of persons representative of the principal health specialties in the fields of public health administration and training, to advise him in connection with the administration of this section and section 309 including the development of program standards and policies and including, in the case of section 309, certification to the Surgeon General of projects which it has reviewed and approved.

(e)[13] The Surgeon General shall, between June 30, 1958, and December 1, 1958, call a conference broadly representative of the professional and training groups interested in and informed about training of professional public health personnel, and including members of the advisory committee appointed pursuant to subsection (d), to assist him in appraising the effectiveness of the traineeships under this section in meeting the needs for trained public health personnel; in considering modifications in this section, if any, which may be desirable to increase its effectiveness; and in considering the most effective distribution of responsibilities between Federal and State governments with respect to the administration and support of public health training. The Surgeon General shall submit to the Congress, on or before January 1, 1959, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1963, and December 1, 1963, call a similar conference, and shall submit to the Congress, on or before January 1, 1964, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1967, and December 1, 1967, call a similar conference, and shall submit to the Congress, on or before January 1, 1968, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section.

(f) Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution.

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[12] Sec. 306(d) amended by sec. 302(b) of P.L. 90–490, and further amended by sec. 601(b)(2) of P.L. 91–515.

[13] Sec. 306(e) amended by sec. 2 of P.L. 88–497.

TRAINEESHIPS FOR ADVANCED TRAINING OF PROFESSIONAL NURSES

42 U.S.C. 242e

SEC. 307.[14] (a)[15] There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next seven fiscal years, such sums as the Congress may determine, to cover the cost of traineeships for the training of professional nurses to teach in the various fields of nurse training (including practical nurse training) or to serve in an administrative or supervisory capacity.

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or other nonprofit institutions providing the training.

(c) Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

(d)[16] The Surgeon General shall appoint an expert advisory committee, composed of persons from the fields of nursing and nurse training, hospital administration, and medicine, to advise him in connection with the administration of this section, including the development of program standards and policies.

(e)[17] The Surgeon General shall, between June 30, 1958, and December 1, 1958, call a conference broadly representative of the professional and training groups interested in and informed about the advanced training of professional nurses, and including members of the advisory committee appointed pursuant to subsection (d), to assist him in appraising the effectiveness of the traineeships under this section in meeting the needs for professional nurses in teaching, administrative and supervisory positions and in considering modifications in this section, if any, which may be desirable to increase its effectiveness, including possible means of stimulating State participation in the administration and financing of advanced training of professional nurses through Federal matching grants to States for support of traineeships or related training activities, or otherwise. The Surgeon General shall submit to the Congress, on or before Janary 1, 1959, a report of such conference, including any recommendations by it relating to the limitation,

[14] Sec. 307 added by secs. 201 and 202 of P.L. 911, 84th Congress. The authority under sec. 307(a)–(c) expired on June 30, 1964. See sec. 821 of this Act for existing authority for traineeships for advanced training of professional nurses.
[15] Sec. 307(a) amended by P.L. 86–105.
[16] Sec. 307(d) amended by sec. 601(b)(2) of P.L. 91–515.
[17] Sec. 307(e) amended by P.L. 86–105.

extension, or modification of this section. The Surgeon General shall, between June 30, 1963, and December 1, 1963, call a similar conference, and shall submit to the Congress, on or before January 1, 1964, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section.

(f) Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution.

INTERNATIONAL COOPERATION

42 U.S.C. 242f

SEC. 308.[18] (a) To carry out the purposes of clause (1)[19] of section 2 of the International Health Research Act of 1960, the Surgeon General may, in the exercise of his authority under this Act and other provisions of law to conduct and support health research and research training, make such use of health research and research training resources in participating foreign countries as he may deem necessary and desirable.

(b) In carrying out his responsibilities under this section the Surgeon General may—

(1) establish and maintain fellowships in the United States and in participating foreign countries;

(2) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining fellowships;

(3) make grants or loans of equipment, medical, biological, physical, or chemical substances or other materials, for use by public institutions or agencies, or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

(4) participate and otherwise cooperate in any international health research or research training meetings, conferences, or other activities;

(5) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of research or research training, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such

[18] Sec. 308 added by sec. 3 of P.L. 86–610.

[19] Clause (1) of sec. 2 reads as follows: "(1) to advance the status of the health sciences in the United States and thereby the health of the American people through cooperative endeavors with other countries in health research, and research training".

scientists and experts when away from their places of residence at rates not to exceed those provided in section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently; and

(6) procure, in accordance with the provisions of section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Secretary, but not in excess of $50 per diem, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(c) The Surgeon General may not, in the exercise of his authority under this section, assist in the construction of buildings for research or research training in any foreign country.

(d) For the purposes of this section—

(1) The term "health research" shall include, but not be limited to, research, investigations, and studies relating to causes and methods of prevention of accidents, including but not limited to highway and aviation accidents.

(2) The term "participating foreign countries" means those foreign countries which cooperate with the United States in carrying out the purposes of this section.

PROJECT GRANTS FOR GRADUATE TRAINING IN PUBLIC HEALTH

42 U.S.C. 242g

SEC. 309. (a)[20] In order to enable the Surgean General to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are hereby authorized to be appropriated not to exceed $2,000,000 for each fiscal year in the period beginning July 1, 1960, and ending June 30, 1964, $2,500,000 for the fiscal year ending June 30, 1965, $4,000,000 for the fiscal year ending June 30, 1966, $5,000,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $9,000,000 for the fiscal year ending June 30, 1969, $8,500,000 for the fiscal year ending June 30, 1970, $14,000,000 for the fiscal year ending

[20] Sec. 309(a) amended by sec. 302(a) of P.L. 90–490. Sec. 309(a) further amended by sec. 2 of P.L. 91–208. Sec. 309(c) further amended by sec. 1 of P.L. 91–208 and by sec. 401(b)(1)(B) of P.L. 91–296.

June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $16,000,000 for the fiscal year ending June 30, 1973.

(b)[21] Grants to institutions under subsection (a) of this section may be made only for those projects which are recommended by the advisory committee appointed pursuant to section 306(d). Any grant for a project made from an appropriation under this section for any fiscal year may include such amounts for carrying out such projects during succeeding years. Payment pursuant to such grants may be made in advance or by way of reimbursement and in such installments as the Surgeon General shall prescribe by regulations after consultation with representatives of such institutions.

81 Stat. 534.
42 USC 242g.

(c)[22] There are also authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1970, $9,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, to enable the Surgeon General to make grants, under such terms and conditions as may be prescribed by regulations, for provision, in public or nonprofit private schools of public health accredited by a body or bodies recognized by the Surgeon General, of comprehensive professional training, specialized consultive services, and technical assistance in the fields of public health and in the administration of State or local public health programs, except that in allocating funds made available under this subsection among such schools of public health, the Surgeon General shall give primary consideration to the number of federally sponsored students attending each such school.

### HEALTH SERVICES FOR DOMESTIC AGRICULTURAL MIGRANTS [23]

42 U.S.C. 242h

SEC. 310.[23] There are hereby authorized to be appropriated not to exceed $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, $9,000,000 each for the fiscal year ending June 30, 1968, and the next fiscal year, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the

76 Stat. 592;
82 Stat. 1006.

fiscal year ending June 30, 1971, $25,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary (1) to make grants to public and other nonprofit agencies, institutions, and organizations for paying part of the cost of (i) establishing and operating family health

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[21] The requirement in sec. 309(b) of the Public Health Service Act that regulations be prescribed for installment payments has been superseded by sec. 6 of P.L. 89–105.

[22] Subsec. 309(c) added by sec. 4 of P.L. 89–749 was amended by sec. 2(g) of P.L. 90–174, further amended by sec. 8(c) of the same P.L.

[23] Section 310 amended and a new heading added thereto by P.L. 91–209.

service clinics for domestic agricultural migratory workers and their families, including training persons (including allied health professions personnel) to provide services in the establishing and operating of such clinics, and (ii) special projects to improve and provide a continuity in health services for and to improve the health conditions of domestic agricultural migratory workers and their families, including necessary hospital care, and including training persons (including allied health professions personnel) to provide health services for or otherwise improve the health conditions of such migratory workers and their families, and (2) to encourage and cooperate in programs for the purpose of improving health services for or otherwise improving the health conditions of domestic agricultural migratory workers and their families. The Secretary may also use funds appropriated under this section to provide health services to persons (and their families) who perform seasonal agricultural services similar to the services performed by domestic agricultural migratory workers if the Secretary finds that the provision of health services under this sentence will contribute to the improvement of the health conditions of such migratory workers and their families. For the purposes of assessing and meeting domestic migratory agricultural workers' health needs, developing necessary resources, and involving local citizens in the development and implementation of health care programs authorized by this section, the Secretary must be satisfied, upon the basis of evidence supplied by each applicant, that persons broadly representative of all elements of the population to be served and others in the community knowledgeable about such needs have been given an opportunity to participate in the development of such programs, and will be given an opportunity to participate in the implementation of such programs.

ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT PROJECTS

SEC. 310A.[24] For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by title IX, and sections 304, 314(a), 314(b), 314(c), 314(d), and 314(e) of this Act in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations— 42 U.S.C. 242i

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the admin-

[24] Secs. 310A and 310B added by secs. 270 and 280, respectively, of P.L. 91–515.

istration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

ANNUAL REPORT

42 U.S.C. 242j

310B.[24] On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of title IX of this Act and sections 304, 305, 314(a), 314(b), 314(c), 314(d), and 314(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate.

## PART B [25]—FEDERAL-STATE COOPERATION

IN GENERAL

42 U.S.C. 243

SEC. 311. (a)[26] The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this Act which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with

[25] Part B amended by striking out "Surgeon General" each place it appears and inserting in lieu thereof "Secretary", by sec. 282 of P.L. 91–515.

[26] Sec. 5(a) of P.L. 89–749 amended sec. 311 by inserting (a) after 311 and inserting a new subsec. (b). Sec. 5(b) of P.L. 89–749 amended subsec. (b) by the addition of a new sentence.

and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 314, and shall advise the several States on matters relating to the preservation and improvement of the public health.

(b)[26] The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out the purposes of section 314. The Secretary is also authorized to train personnel for State and local health work.

(c)[27] The Secretary may enter into agreements providing for cooperative planning between Public Health Service medical facilities and community health facilities to cope with health problems resulting from disasters, and for participation by Public Health Service medical facilities in carrying out such planning. He may also, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for aid (other than planning) under the preceding sentences of this subsection as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation of the Public Health Service for the year in which such reimbursement is received.

HEALTH CONFERENCES

SEC. 312.[28] A conference of the health authorities of the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend. 42 U.S.C. 244

(a) There shall be a collection of the statistics of the births and deaths in registration areas annually, the data for which shall be obtained only from and restricted to

[27] Subsec. (c) added by sec. 4 of P.L. 90–174.
[28] Sec. 312 amended by Sec. 12(b) of P.L. 90–174.

such registration records of such States and municipalities as in the discretion of the Secretary of Health, Education, and Welfare possess records affording satisfactory data in necessary detail, the compensation for the transcription of which shall not exceed 4 cents for each birth or death reported; or a minimum compensation of $25 may be allowed in the discretion of the Secretary of Health, Education, and Welfare, in States or cities registering less than five hundred deaths or five hundred births during the preceding year.

COLLECTION OF VITAL STATISTICS

42 U.S.C. 245

SEC. 313. To secure uniformity in the registration of mortality, morbidity, and vital statistics the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part of the health reports published by the Secretary.

GRANTS TO STATES FOR COMPREHENSIVE STATE HEALTH PLANNING [29]

42 U.S.C. 246

SEC. 314. (a)(1)[30] AUTHORIZATION.—In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973.

(2) STATE PLANS FOR COMPREHENSIVE STATE HEALTH PLANNING.—In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include repre-

[29] Sec. 314 amended by secs. 3 and 6 of P.L. 89–749.

[30] Subsec. 314(a)(1) amended by sec. 2(a)(1) of P.L. 90–174, and by sec. 220(a)(1) of P.L. 91–515. Subsec. 314(a)(2)(B) amended by sec. 220(a) and (b) of P.L. 91–515. Subsec. 314(a)(2)(C) amended by sec. 220(c) of P.L. 91–515.

sentatives of Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representative of the hospitals or other health care facilities of such Administration which are located in such State) and nongovernmental organizations and groups concerned with health, (including representation of the regional medical program or programs included in whole or in part within the State) and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to provide for comprehensive State planning for health services (both public and private and including home health care), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State and including environmental considerations as they relate to public health;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds; 80 Stat. 1181 80 Stat. 1182

(F)[30a] provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by

[30a] Sec. 208(a)(3) of P.L. 91–648 transfers to the U.S. Civil Service Commission all functions, powers, and duties of the Secretary under sec. 314(a)(2)(F) insofar as they relate to the prescription of personnel standards on a merit basis.

the Secretary to be necessary for the proper and efficient operation of the plan;

Record keeping requirements

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H)[31] provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I)[31] effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommended appropriate modification thereof;

(J)[31] provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K)[31] contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

(3)(A) STATE ALLOTMENTS.—From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secre-

[31] Subsec. 314(a)(2) amended by redesignating subpars. (I) and (J) as (J) and (K), respectively; and by inserting a new subpar. (I), by sec. 2(a)(2) of P.L. 90–174.

tary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year. 80 Stat. 1182 80 Stat. 1183

(4)[32] PAYMENTS TO STATES.—From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum, of such cost.

PROJECT GRANTS FOR AREAWIDE HEALTH PLANNING

(b)(1)[33] (A) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1973, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a), project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehen-

[32] The last sentence of subsec. 314(a)(4) amended by sec. 2(a)(3) of P.L. 90–174.

[33] Subsec. 314(b) amended by subsec. 2(b)(1) of P.L. 90–174, and further amended by subsec. 111(a) of P.L. 91–296, and by sec. 230 of P.L. 91–515.

sive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; and including the provision of such services through home health care; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1967, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973.

(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

(2) (A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services.

(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable

assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan which will meet the needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

PROJECT GRANTS FOR TRAINING, STUDIES, AND DEMONSTRATIONS

(c)[34] The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, $7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, and $12,000,000 for the fiscal year ending June 30, 1973.

GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

(d)(1)[34a] AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1968, $90,000,000 for the fiscal year ending June 30, 1969, $100,000,000 for the fiscal year ending June 30, 1970, $130,000,000 for the fiscal year ending June 30, 1971, $145,000,000 for the fiscal year ending June 30, 1972, and $165,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary to make grants to State health or mental health authorities to assist the States in establishing and maintaining adequate public health services, including the training of personnel for State and local health work. The sums so appropriated shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for provision of public health services.

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[34] Subsec. 314(c) amended by subsec. 2(b)(2) of P.L. 90–174, and further amended by sec. 240 of P.L. 91–515.

[34a] Subsec. 314(d) amended by subsec. 2(d)(1)(a) of P.L. 90–174. Effective with respect to appropriations for fiscal years beginning after 6/30/70, sec. 314(d)(1) amended by sec. 401(b)(1)(C) of P.L. 91–296, and further amended by subsec. 250(a) of P.L. 91–515.

(2) STATE PLANS FOR PROVISION OF PUBLIC HEALTH SERVICES.—In order to be approved under this subsection, a State plan for provision of public health services must—

(A) provide for administration or supervision of administration by the State health authority or, with respect to mental health services, the State mental health authority;

(B) set forth the policies and procedures to be followed in the expenditure of the funds paid under this subsection;

(C)[35] contain or be supported by assurances satisfactory to the Secretary that (i) the funds paid to the State under this subsection will be used to make a significant contribution toward providing and strengthening public health services in the various political subdivisions in order to improve the health of the people; (ii) such funds will be made available to other public or nonprofit private agencies, institutions, and organizations, in accordance with criteria which the Secretary determines are designed to secure maximum participation of local, regional, or metropolitan agencies and groups in the provision of such services; (iii) such funds will be used to supplement and, to the extent practical, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (iv) the plan is compatible with the total health program of the State;

(D) provide for the furnishing of public health services under the State plan in accordance with such plans as have been developed pursuant to subsection (a);

(E) provide that public health services furnished under the plan will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services;

(F) [35a] provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State health authority or, with respect to mental health services, the State

[35] Subsec. 314(d)(2)(C) amended by subsec. 250(b) of P.L. 91–515.
[35a] Sec. 208(a)(3) of P.L. 91–648 transfers to the U.S. Civil Service Commission all functions, powers, and duties of the Secretary under sec. 314(d)(2)(F) insofar as they relate to the prescription of personnel standards on a merit basis.

mental health authority, will from time to time, but not less often than annually, review and evaluate its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

Recordkeeping requirements

(H) provide that the State health authority or, with respect to mental health services, the State mental health authority, will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(I)[36] provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subsection;

(J)[36, 37] contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection;

(K) [36, 37] provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, and

(L)[37] Provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem.

(3) STATE ALLOTMENTS.—From the sums appropriated to carry out the provisions of this subsection the several States shall be entitled for each fiscal year to allotments determined, in accordance with regulations, on the basis of the population and financial need of the respective States, except that no State's allotment shall be less for any year than the total amounts allotted to such State under formula grants for cancer control, plus other allotments under this section, for the fiscal year ending June 30, 1967.

(4) (A) PAYMENTS TO STATES.—From each State's allotment under this subsection for a fiscal year, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under this subsection. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this subsection.

(B) For the purpose of determining the Federal share for any State, expenditures by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State or a political subdivision thereof.

[36] Subparagraphs (I) and (J) of sec. 314(d)(2) amended and a new subparagraph (K) added, by sec. 3(b) of P.L. 91–513.
[37] Sec. 331 of P.L. 91–616 amends sec. 314(d)(2) and adds sub. par. (L).

(5)[38] FEDERAL SHARE.—The "Federal share" for any State for purposes of this subsection shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that in no case shall such percentage be less than 33⅓ per centum or more than 66⅔ per centum, and except that the Federal share for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 66⅔ per centum.

(6) DETERMINATION OF FEDERAL SHARES.—The Federal shares shall be determined by the Secretary between July 1 and September 1 of each year, on the basis of the average per capita incomes of each of the States and of the United States for the most recent year for which satisfactory data are available from the Department of Commerce, and such determination shall be conclusive for the fiscal year beginning on the next July 1. The populations of the several States shall be determined on the basis of the latest figures for the population of the several States available from the Department of Commerce.

(7) [39] ALLOCATION OF FUNDS WITHIN THE STATES.—At least 15 per centum of a State's allotment under this subsection shall be available only to the State mental health authority for the provision under the State plan of mental health services. Effective with respect to allotments under this subsection for fiscal years ending after June 30, 1968, at least 70 per centum of such amount reserved for mental health services and at least 70 per centum of the remainder of a State's allotment under this subsection shall be available only for the provision under the State plan of services in communities of the State.

PROJECT GRANTS FOR HEALTH SERVICES DEVELOPMENT

(e)[40, 41, 42] There are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1968, $95,000,000 for the fiscal year ending June 30, 1969, $80,000,000 for the fiscal year ending June 30, 1970, $109,500,000 for the fiscal year ending June 30, 1971, $135,000,000 for the

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[38] The addition of the Trust Territory of the Pacific Islands is not effective until July 1, 1968, sec. 2(d)(2) of P.L. 90–174.

[39] Subsec. 314(d)(7) amended by subsec. (d)(3) of P.L. 90–174.

[40] Subsec. 314(e) amended by subsecs. 2(e), 3(b), and 8(b), respectively, of P.L. 90–174. Subsec. 3(b) of P.L. 90–174 also provides that any sums appropriated for the fiscal year ending June 30, 1968, for carrying out sec. 314(e)(3) which remain unobligated on the date of enactment of this Act shall be available for carrying out sec. 304 of the Public Health Service Act.

[41] Subsec. 314(e) amended by subsec. 260 (a) and (b) of P.L. 91–515, and further amended by subsec. (c) (1) and (2) of the same P.L., effective with respect to grants under sec. 314(e) of the PHS Act which are made after the date of enactment of this Act.

[42] Effective with respect to appropriations for the fiscal years beginning after 6/30/70, sec. 314(e) amended by sec. 401(b)(1)(D) of P.L. 91–296, 6/30/70.

fiscal year ending June 30, 1972, and $157,000,000 for the fiscal year ending June 30, 1973, for grants to any public or nonprofit private agency, institution, or organization to cover part of the cost (including equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity) of (1) providing services (including related training) to meet health needs of limited geographic scope or of specialized regional or national significance, or (2) developing and supporting for an initial period new programs of health services (including related training). Any grant made under this subsection may be made only if the application for such grant has been referred for review and comment to the appropriate areawide health planning agency or agencies (or, if there is no such agency in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions) and only if the services assisted under such grant will be provided in accordance with such plans as have been developed pursuant to subsection (a).

INTERCHANGE OF PERSONNEL WITH STATES

(f)[42a] (1) For the purposes of this subsection, the term "State" means a State or a political subdivision of a State, or any agency of either of the foregoing engaged in any activities related to health or designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a); the term "Secretary" means (except when used in paragraph (3)(D)) the Secretary of Health, Education, and Welfare; and the term "Department" means the Department of Health, Education, and Welfare.

(2) The Secretary is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Department and assignment to States of officers and employees in the Department engaged in work related to health, for work which the Secretary determines will aid the Department in more effective discharge of its responsibilities in the field of health as authorized by law, including cooperation with States and the provision of technical or other assistance. The period of assignment of any officer or employee under an arrangement shall not exceed two years.

(3)(A) Officers and employees in the Department assigned to any State pursuant to this subsection shall be considered, during such assignment, to be (i) on detail to a regular work assignment in the Department, or (ii)

[42a] Sec. 403 of P.L. 91–648 repealed sec. 314(f) (less applicability of commissioned officers of the Public Health Service).

on leave without pay from their positions in the Department.

(B) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Department for all purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the Department and the State involved.

(C) In the case of persons so assigned and on leave without pay—

(i) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Department, they may receive supplemental salary payments from the Department in the amount considered by the Secretary to be justified, but not at a rate in excess of the difference between the State rate and the Department rate; and

(ii) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Secretary to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

68 Stat. 736
5 U.S.C. 2091 note

(iii) to continuation of their insurance under the Federal Employees' Group Life Insurance Act of 1954, and coverage under the Federal Employees Health Benefits Act of 1959, so long as the Department continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such Acts the amount of the employee's contributions and the Government's contribution from appropriations of the Department; and

73 Stat. 708
5 U.S.C. 3001 note

(iv) (I) in the case of commissioned officers of the Service to have their service during their assignment treated as provided in section 214(d) for such officers on leave without pay, or (II) in the case of other officers and employees in the Department, to credit the period of their assignment under the arrangement under this subsection toward periodic or longevity step increases and for retention and leave accrual purposes, and, upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Secretary into such fund of the amount which would have been

58 Stat. 690
42 U.S.C. 215

payable by him during the period of such assignment with respect to a like Federal salary, to treat (notwithstanding the provisions of the Independent Offices Appropriations Act, 1959, under the head 'Civil Service Retirement and Disability Fund') their service during such period as service within the meaning of the Civil Service Retirement Act; 72 Stat. 1064 5 U.S.C. 2267 note 70 Stat. 736 5 U.S.C. 2251 note

except that no officer or employee or his beneficiary may receive any benefits under the Civil Service Retirement Act, the Federal Employees Health Benefits Act of 1959, or the Federal Employees' Group Life Insurance Act of 1954, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Department shall deposit currently in the funds created under the Federal Employees' Group Life Insurance Act of 1954, the Federal Employees Health Benefits Act of 1959, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these Acts on account of service with respect to which employee contributions are collected as provided in subparagraph (iii) and the amount of the Government's contribution under the Civil Service Retirement Act on account of service with respect to which payments (of the amount which would have been deducted under that Act) referred to in subparagraph (iv) are made to such civil service retirement and disability fund. 68 Stat. 736 5 U.S.C. 2091 note

(D) Any such officer or employee on leave without pay (other than a commissioned officer of the Service) who suffers disability or death as a result of personal injury sustained while in the performance of his duty during an assignment hereunder, shall be treated, for the purposes of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law. 39 Stat. 742; 63 Stat. 854 5 U.S.C. 751 note

(4) Assignment of any officer or employee in the Department to a State under this subsection may be made with or without reimbursement by the State for the compensation (or supplementary compensation), travel

and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

Transportation of household goods

(5)[43] Appropriations to the Department shall be available, in accordance with the standardized Government travel regulations or, with respect to commissioned officers of the Service, the joint travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this subsection on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods and personal effects in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(6)[43] Officers and employees of States who are assigned to the Department under an arrangement under this subsection may (A) be given appointments in the Department covering the periods of such assignments, or (B) be considered to be on detail to the Department. Appointments of persons so assigned may be made without regard to the civil service laws. Persons so appointed in the Department shall be paid at rates of compensation determined in accordance with the Classification Act of 1949, and shall not be considered to be officers or employees of the Department for the purposes of (A) the Civil Service Retirement Act, (B) the Federal Employees' Group Life Insurance Act of 1954, or (C) unless their appointments result in the loss of coverage in a group health benefits plan whose premium has been paid in whole or in part by a State contribution, the Federal Employees Health Benefits Act of 1959. State officers and employees who are assigned to the Department without appointment shall not be considered to be officers or employees of the Department, except as provided in subsection (7), nor shall they be paid a salary or wage by the Department during the period of their assignment. The supervision of the duties of such persons during the assignment may be governed by agreement between the Secretary and the State involved.

*Ante*, p. 288
70 Stat. 736

5 U.S.C. 2251 note
68 Stat. 736
5 U.S.C. 2091 note
73 Stat. 708
5 U.S.C. 3001 note

Conflict-of-interest provisions, applicability
76 Stat. 1121

(7) (A) Any State officer or employee who is assigned to the Department without appointment shall nevertheless be subject to the provisions of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

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[43] Pars. (5) and (6) of sec. 314(f) amended by sec. 12(d), subsecs. (1) and (2) respectively of P.L. 90–174.

(B) Any State officer or employee who is given an appointment while assigned to the Department, or who is assigned to the Department without appointment, under an arrangement under this subsection, and who suffers disability or death as a result of personal injury sustained while in the performance of his duty during such assignment shall be treated, for the purpose of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents, in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(8)[44] The appropriations to the Department shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Department under an arrangement under this subsection.

(9) All arrangements under this subsection for assignment of officers or employees in the Department to States or for assignment of officers or employees of States to the Department shall be made in accordance with regulations of the Secretary.

GENERAL

(g)(1) All regulations and amendments thereto with respect to grants to States under subsection (a) shall be made after consultation with a conference of the State health planning agencies designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a). All regulations and amendments thereto with respect to grants to States under subsection (d) shall be made after consultation with a conference of State health authorities and, in the case of regulations and amendments which relate to or in any way affect grants for services or other activities in the field of mental health, the State mental health authorities. Insofar as practicable, the Secretary shall obtain the agreement, prior to the issuance of such regulations or amendments, of the State authorities or agencies with whom such consultation is required.

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[44] Par. (8) of section 314(f) amended by subsec. 12(d)(2) of P.L. 90–174.

(2) The Secretary, at the request of any recipient of a grant under this section, may reduce the payments to such recipient by the fair market value of any equipment or supplies furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the State plan or the project with respect to which the grant under this section is made. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall, for purposes of determining the Federal share under subsection (a) or (d), be deemed to have been paid to the State.

Noncompliance, cessation of payments

(3) Whenever the Secretary, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of a State or a State health planning agency designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a), finds that, with respect to money paid to the State out of appropriations under subsection (a) or (d), there is a failure to comply substantially with either—

(A) the applicable provisions of this section;

(B) the State plan submitted under such subsection; or

(C) applicable regulations under this section;

the Secretary shall notify such State health authority, mental health authority, or health planning agency, as the case may be, that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(4) For the purposes of this section—

"Nonprofit"

(A) The term "nonprofit" as applied to any private agency, institution, or organization means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

80 Stat. 1189
80 Stat. 1190

"State"

(B)[45] The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the

[45] The addition of the Trust Territory of the Pacific Islands is not effective until July 1, 1968, sec. 2(f) of P.L. 90–174.

District of Columbia and the term "United States" means the fifty States and the District of Columbia.

HEALTH EDUCATION AND INFORMATION

SEC. 315. From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions engaged in work related to the functions of the Service. 42 U.S.C. 247

NATIONAL ADVISORY COUNCIL ON COMPREHENSIVE HEALTH PLANNING PROGRAMS

SEC. 316.[46] (a) The Secretary shall appoint, without regard to the civil service laws, a National Advisory Council on Comprehensive Health Planning Programs. The Council shall consist of the Secretary or his designee, who shall be the chairman, and sixteen members, not otherwise in the regular full-time employ of the United States, who are (1) leaders in the fields of the fundamental sciences, the medical sciences, or the organization, delivery, and financing of health care, (2) officials in State and areawide health planning agencies, (3) leaders in health care administration, or State or community or other public affairs, who are State or local officials, or (4) representatives of consumers of health care. At least six of the appointed members shall be individuals representing the consumers of health care, one shall be an official of a State health planning agency, one shall be an official of an areawide health planning agency, and one shall be a member of the National Advisory Council on Regional Medical Programs. 42 U.S.C. 247a

(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates

[46] Sec. 316 added by sec. 281 of P.L. 91–515.

not exceeding the daily equivalent of the rate specified at the time of service for GS–18 of the general schedule, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

(d) The Council shall advise and assist the Secretary in the preparation of general regulations for, and as to policy matters arising with respect to, the administration of section 314 of this title, with increased emphasis on cooperation in the coordination of programs thereunder with the National Advisory Council on Regional Medical Programs, with particular attention to the relationship between the improved organization and delivery of health services and the financing of such services; and shall, in carrying out such functions, review, not less often than annually, the grants made under section 314 to determine their effectiveness in carrying out its purposes.

COMMUNICABLE DISEASE CONTROL AND VACCINATION ASSISTANCE

SEC. 317.[47] (a) There are hereby authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, and $90,000,000 for the fiscal year ending June 30, 1972, to enable the Secretary to make grants to States and, with the approval of the State health authority, to political subdivisions or instrumentalities of the States under this subsection. In the award of such grants the Secretary shall give consideration to the relative extent of the problems relating to one or more of the diseases referred to in subsection (b)(1) and to the levels of performance in preventing and controlling such diseases. Such grants may be used for meeting the cost of communicable disease control programs, including the cost of studies to determine the communicable disease control needs of communities and the means of best meeting such needs.

(b) For the purposes of this subsection—

(1) a "communicable disease control program" means a program which is designed and conducted so as to contribute to national protection against tuberculosis, venereal disease, rubella, measles, Rh disease, poliomyelitis, diphtheria, tetanus, whooping cough or other communicable diseases which are transmitted from State to State, are amenable to reduction, and which are determined by the Secretary on the recommendation of the National Advisory Health Council to be of national significance, and

(2) the term "State" includes the Commonwealth

[47] Sec. 317 amended by sec. 2 of P.L. 91–464.

of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(c) Payments under this section may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments, or overpayments, in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

(d) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies (including vaccines and other preventive agents), or equipment furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when the furnishing of such supplies or equipment, or of the detail of such officer or employee (as the case may be), is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based, but such amount shall be deemed a part of the grant to such recipient and shall, for the purposes of subsection (c), be deemed to have been paid to such agency.

(e) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to a political subdivision of a State under other provisions of this Act or other Federal law and which are available for the conduct of communicable disease control programs from being used in connection with programs assisted through grants under this section.

(f) The Secretary shall submit an annual report to the President for submission to the Congress on the effectiveness of activities assisted under this section in preventing and controlling communicable diseases.

(g) Nothing in this section shall be construed to require any State or any political subdivision or instrumentality of a State to have a communicable disease control or vaccination program which would require any person who objects to such treatment to be treated, or to have any child or ward of his treated.

SPECIAL PROJECT GRANTS FOR ASSISTING IN THE AREA-WIDE PLANNING OF HEALTH AND RELATED FACILITIES

SEC. 318.[48] * * *

[48] Sec. 318 repealed effective July 1, 1967, by sec. 6 of P.L. 89-749.

## Part C—Hospitals, Medical Examinations, and Medical Care

### HOSPITALS

42 U.S.C. 248

Sec. 321. The Surgeon General, pursuant to regulations, shall—

(a) [49] Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c) [50] Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) [51] Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) [52] Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station.

### CARE AND TREATMENT OF SEAMEN AND CERTAIN OTHER PERSONS

42 U.S.C. 249

Sec. 322. (a) The following persons shall be entitled, in accordance with regulations, to medical, surgical, and dental treatment and hospitalization without charge at hospitals and other stations of the Service:

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[49] Subsec. 321(a) was amended by sec. 2(a) of P.L. 781, 80th Congress.
[50] Subsec. 321(c) was amended, by striking out the word "and" at the end of the subsection, by sec. 2(b) of P.L. 781, 80th Congress.
[51] Subsec. 321(d) was amended, by striking out the period at the end of the subsection and inserting in lieu thereof "; and", by sec. 2(b) of P.L. 781, 80th Congress.
[52] Subsec. 321(e) was added by sec. 2(b) of P.L. 781, 80th Congress.

(1) Seamen employed on vessels of the United States registered, enrolled, and licensed under the maritime laws thereof, other than canal boats engaged in the coasting trade;

(2) Seamen employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration;

(3) Seamen, not enlisted or commissioned in the military or naval establishments, who are employed on State school ships or on vessels of the United States Government of more than five tons' burden;

(4) Cadets at State maritime academies or on State training ships;

(5) Seamen on vessels of the Mississippi River Commission and, upon application of their commanding officers, officers and crews of vessels of the Fish and Wildlife Service;

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Cadet Corps;

(7)[53] Seamen-trainees while participating in maritime training programs to develop or enhance their employability in the maritime industry; and

(8)[54] Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services performed by seamen employed on such vessel or on vessels engaged in similar operations.

(b) When suitable accommodations are available, seamen on foreign-flag vessels may be given medical, surgical, and dental treatment and hospitalization on application of the master, owner, or agent of the vessel at hospitals and other stations of the Service at rates fixed by regulations. All expenses connected with such treatment, including burial in the event of death, shall be paid by such master, owner, or agent. No such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed to the Collector of Customs.

(c) Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

(d) Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be

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[53] Subsec. 322(a)(7) amended by sec. 10(c) of P.L. 90–174.
[54] Subsec. 322(a)(8) was added by P.L. 88–424.

admitted thereto for temporary treatment and care in case of emergency.

(e)[55] Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made.

CARE AND TREATMENT OF FEDERAL PRISONERS

42 U.S.C. 250

SEC. 323. The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by the Act of May 13, 1930, as amended (U.S.C., 1940 edition, title 18, secs. 751, 752), in penal and correctional institutions of the United States.

EXAMINATION AND TREATMENT OF FEDERAL EMPLOYEES

42 U.S.C. 251

SEC. 324.[56] (a) The Surgeon General is authorized to provide at institutions, hospitals, and stations of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under the United States Employees' Compensation Act and extensions thereof. The Surgeon General may also provide for making medical examinations of—

(1) employees of the Alaska Railroad and employees of the Federal Government for retirement purposes;

(2) employees in Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the Longshoremen's and Harbor Workers' Compensation Act, as amended (U.S.C., 1940 edition, title 33, chapter 18), as requested by any deputy commissioner thereunder.

(b)[57] The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in section 8901(1) of title 5 of the United States Code) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. Such employees and their dependents who are not entitled to this care and treatment under any other provision of law shall be charged for it at

[55] Subsec. (e) amended by sec. 3 of P.L. 80–781.
[56] Sec. 324 amended by secs. 10 (a) and (b) of P.L. 90–174. All references to sec. 324(a)–(d) should be read as 324(a) (1)–(4), respectively.
[57] Subsec. 324(b) added by sec. 10(b) of P.L. 90–174.

rates established by the Secretary to reflect the reasonable cost of providing the care and treatment. Any payments pursuant to the preceding sentence shall be credited to the applicable appropriation to the Public Health Service for the year in which such payments are received.

EXAMINATION OF ALIENS

SEC. 325. The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Secretary. 42 U.S.C. 252

SERVICES TO COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE

SEC. 326.[58] (a) Subject to regulations of the President— 42 U.S.C. 253

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard on active duty, including those on shore duty and those on detached duty; and Regular and temporary members of the United States Coast Guard Reserve when on active duty;

(2)[58] commissioned officers, ships' officers, and members of the crews of vessels of the United States Coast and Geodetic Survey on active duty including those on shore duty and those on detached duty; and

(3)[58] commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty;

shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the Coast and Geodetic Survey

(b)[59] * * *

(c)[59] The Service shall provide all services referred to in subsection (a) required by the Coast Guard or Coast and Geodetic Survey and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion and retirement, and officers of the Service assigned to duty on Coast Guard or Coast and Geodetic Survey vessels may extend aid to the crews of American vessels engaged in deep-sea fishing.

[58] Pars. (1) and (2) were amended and par. (3) was added by sec. 5(d) of P.L. 86–415.

[59] Sec. 326(b) repealed and sec. 326(c) amended by P.L. 88–71.

INTERDEPARTMENTAL WORK

42 U.S.C. 254

SEC. 327. Nothing contained in this part shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work or services, requested in accordance with section 7 of the Act of May 21, 1920, as amended (U.S.C., 1940 edition, title 31, sec. 686), or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Department of Health, Education, and Welfare for the Service in accordance with that section.

SHARING OF MEDICAL CARE FACILITIES AND RESOURCES

42 U.S.C. 254a

SEC. 328.[60] (a) For purposes of this section—

(1) the term "specialized health resources" means health care resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the health care community or are subject to maximum utilization only through mutual use;

(2) the term "hospital", unless otherwise specified, includes (in addition to other hospitals) any Federal hospital.

(b) For the purpose of maintaining or improving the quality of care in Public Health Service facilities and to provide a professional environment therein which will help to attract and retain highly qualified and talented health personnel, to encourage mutually beneficial relationships between Public Health Service facilities and hospitals and other health facilities in the health care community, and to promote the full utilization of hospitals and other health facilities and resources, the Secretary may—

(1) enter into agreements or arrangements with schools of medicine, and with other health schools, agencies, or institutions, for such interchange or cooperative use of facilities and services on a reciprocal or reimbursable basis, as will be of benefit to the training or research programs of the participating agencies; and

(2) enter into agreement or arrangements with hospitals and other health care facilities for the mutual use or the exchange of use of specialized health resources, and providing for reciprocal reimbursement.

Any reimbursement pursuant to any such agreement or arrangement shall be based on charges covering the reasonable cost of such utilization, including normal depreciation and amortization costs of equipment. Any

[60] Sec. 328 added by sec. 7 of P.L. 90–174.

proceeds to the Government under this subsection shall be credited to the applicable appropriation of the Public Health Service for the year in which such proceeds are received.

ASSIGNMENT OF MEDICAL AND OTHER HEALTH PERSONNEL TO CRITICAL NEED AREAS

42 U.S.C. 248.

SEC. 329.[61] (a) It shall be the function of an identifiable administrative unit within the Service to improve the delivery of health services to persons living in communities and areas of the United States where health personnel and services are inadequate to meet the health needs of the residents of such communities and areas.

(b) Upon request of a State or local health agency or other public or nonprofit private health organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary is authorized, whenever he deems such action appropriate, to assign commissioned officers and other personnel of the Service to provide, under regulations prescribed by the Secretary, health care and services for persons residing in such areas. Such care and services shall be provided in connection with (1) direct health care programs carried out by the Service; (2) any direct health care program carried out in whole or in part with Federal financial assistance; or (3) any other health care activity which is in furtherance of the purposes of this section. Any person who receives a service provided under this section shall be charged for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary may provide for the furnishing of such service at a reduced rate or without charge. If a Federal agency or a State or local government agency or other third party would be responsible for all or part of the cost of the service provided under this section if such service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(c) Commissioned officers and other personnel of the Service assigned to areas designated under subsection

[61] Sec. 329 added by sec. 2 of P.L. 91–623.

(b) shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

(d) Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Service in providing care and services under subsection (b) to utilize the health facilities of the area to be served. If there are no such facilities in such area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services.

(e)(1) There is established a council to be known as the National Advisory Council on Health Manpower Shortage Areas (hereinafter in this section referred to as the "Council"). The Council shall be composed of fifteen members appointed by the Secretary as follows:

(A) Four members shall be appointed from the general public, representing the consumers of health care.

(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

(C) Three members shall be appointed from State health or health planning agencies.

(D) Three members shall be appointed from the Service, at least two of whom shall be commissioned officers of the Service.

(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs.

The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section.

(2) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for

persons in the Government service employed intermittently.

(f) It shall be the function of the Secretary—

(1) to establish guidelines with respect to how the Service shall be utilized in areas designated under this section;

(2) to select commissioned officers of the Service and other personnel for assignment to the areas designated under this section; and

(3) to determine which communities or areas may receive assistance under this section taking into consideration—

(A) the need of the community or area for health services provided under this section;

(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Service in providing effective health services to residents of the community or area;

(C) the recommendations of any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved; and

(D) recommendations from the State medical, dental, and other health associations and from other medical personnel of the community or area considered for assistance under this section.

(g) To carry out the purposes of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $20,000,000 for the fiscal year ending June 30, 1972; and $30,000,000 for the fiscal year ending June 30, 1973.

## Part D—Lepers

### Receipt of lepers

Sec. 331.[62] The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 332 or 361 of this Act, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate

42 U.S.C. 255

[62] Sec. 331 amended by subsec. 29(b) and subsec. 47(f) of P.L. 86–624.

hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes, including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service, the Surgeon General is authorized and directed to make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana.

APPREHENSION, DETENTION, TREATMENT, AND RELEASE

42 U.S.C. 256

SEC. 332. The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy.

## PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS [63]

CARE AND TREATMENT

42 U.S.C. 257

SEC. 341. (a) [64] The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code), addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere

[63] The heading of Part E amended by sec. 2(a)(6) of P.L. 91–513.
[64] Sec. 341(a) amended by sec. 2(a)(1) of P.L. 91–513.

where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision.

(b) Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Commissioners of the District of Columbia or their designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person.

EMPLOYMENT OF ADDICTS OR OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS [65]

SEC. 342.[65] Narcotic addicts or other persons with drug abuse and drug dependence problems in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Secretary shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel

42 U.S.C. 258

[65] Sec. 342 amended by the following portions of P.L. 91–513:
(a) Sec. 2(a)(2)(B) amended the heading.
(b) Sec. 2(a)(2)(A) by inserting "or other persons with drug abuse and drug dependence problems" immediately after "addicts" each place it appears therein.

of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

CONVICTS

42 U.S.C. 259

SEC. 343.[66] (a) The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems, if accommodations are available, all addicts or other persons with drug abuse and drug dependence problems who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict or other person with a drug abuse or other drug dependence problem shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict or other person with a drug abuse or other drug dependence problem whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict or other person with a drug abuse or other drug dependence problem. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Serv-

[66] Sec. 343 amended by the following portions of P.L. 91–513:
(a) By sec.. 2(a)(2)(A) by inserting "or other persons with drug abuse and drug dependence problems" immediately after "addicts" each place it appears therein.
(b) By sec. 2(a)(3) by inserting "or other person with a drug abuse or other drug dependence problem" immediately after "addict" each place it appears therein.
(c) By sec. 2(a)(4) by inserting ", drug abuse, or drug dependence" immediately after "addiction" each place it appears therein.

ice hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict or other person with a drug abuse or other drug dependence problem such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, drug abuse, or drug dependence and the nature of the offense committed. Whenever an alien addict or other person with a drug abuse or other drug dependence problem transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) The provisions of the Act of June 21, 1902, as amended (U.S.C., 1940 edition, title 18, secs. 710–712a), regulating commutation of sentence for good conduct of United States prisoners, section 8 of the Act of May 27, 1930 (U.S.C., 1940 edition, title 18, sec. 744h), regulating commutation of sentence for employment in industry, and the Act of June 25, 1910, as amended (U.S.C., 1940 edition, title 18, secs. 714–723c), relating to parole, shall be applicable to any narcotic addict or other person with a drug abuse or other drug dependence problem confined in any institution in execution of a judgment or sentence upon conviction of an offense against the United States; except that no narcotic addict or other person with a drug abuse or other drug dependence problem confined in any institution, whether or not an institution of the Public Health Service, shall be released by reason of commutation of sentence or parole until the Surgeon General shall have certified that such individual is no longer an addict or other person with a drug abuse or other drug dependence problem.

(c) Not later than one month prior to the expiration of the sentence of any addict or other person with a drug abuse or other drug dependence problem confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict or other person with a drug abuse or other drug dependence problem and that he may by further treatment in a Service hospital be cured of his addiction, drug abuse, or drug dependence the addict or other person with a drug abuse or other drug dependence problem shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The addict or other person with a drug abuse or other drug dependence problem may then apply in writing to the

Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict or other person with a drug abuse or other drug dependence problem may be given such further treatment as is necessary to cure him of his addiction, drug abuse, or drug dependence.

(d) Every person convicted of an offense against the United States, upon discharge, or upon release on parole from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict, or other person with a drug abuse or other drug dependence problem shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts or other persons with drug abuse and drug dependence problems discharged from hospitals of the Service.

VOLUNTARY PATIENTS

42 U.S.C. 260

SEC. 344.[67] (a) Any addict, or other person with a drug abuse or other drug dependence problem whether or not he shall have been convicted of an offense against the

[67] Sec. 344 amended by the following portions of P.L. 91–513:
(a) By sec. 2(a)(2)(A).
(b) By sec. 2(a)(3) by inserting "or other person with a drug abuse or other drug dependence problem" immediately after "addict" each place it appears therein.
(c) By sec. 2(a)(4).

United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems.

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict, or other person with a drug abuse or other drug dependence problem whether by treatment in a hospital of the Service he may probably be cured of his addiction, drug abuse, or drug dependence and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict or other person with drug abuse or other drug dependence problem shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States have been admitted. Any such addict or other person with a drug abuse or other drug dependence problem may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts or other persons with drug abuse and drug dependence problems admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict or other person with a drug abuse or other drug dependence problem who is discharged as cured.

(c) Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section, including any addict, or other person with a drug abuse or other drug dependence problem not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the addiction, drug abuse, or drug dependence or until such time as he ceases to be an addict or other person with a drug abuse or other drug dependence problem.

(d) Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him

in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this Act, be confidential and shall not be divulged.

PERSONS COMMITTED FROM DISTRICT OF COLUMBIA

42 U.S.C. 260a

SEC. 345. (a)[68, 69] The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 321(b), any addict who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for care and treatment. No such addict shall be admitted unless (1) committed prior to July 1, 1958; and (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than 100; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.

(b) Any person admitted to a hospital of the Service pursuant to subsection (a) shall be discharged therefrom (1) upon order of the United States District Court for the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the United States District Court for the District of Columbia and shall deliver such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress).

(c) With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a), the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

(d) The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) shall be a charge upon the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all or particular classes of

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[68] Subsec. 345(a) amended by sec. 302(c) of P.L. 764, 84th Congress.
[69] Secs. 345 and 347 added and previous sec. 345 renumbered 346 by Act of May 8, 1954, 68 Stat. 79, P.L. 355, 83d Congress.

patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District of Columbia, including subsistence allowance while traveling, for any such addict who is discharged.[69]

PENALTIES

SEC. 346.[69, 70] (a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, any habit-forming narcotic drug, or substance controlled under the Controlled Substances Act, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years. 42 U.S.C. 261

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years.

RELEASE OF PATIENTS

SEC. 347.[69, 71] For purposes of this Act, an individual shall be deemed cured of his addiction, drug abuse, or drug dependence, and rehabilitated if the Surgeon General determines that he has received the maximum bene-

[70] Sec. 346 amended by sec. 2(a)(2)(A) and sec. 2(a)(5) of P.L. 91–513.
[71] Sec. 347 amended by sec. 2(a)(4) of P.L. 91–513.

fits of treatment and care by the Service for his addiction, drug abuse, or drug dependence, or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

## PART F—LICENSING—BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES AND CONTROL OF RADIATION [72]

### SUBPART 1 [73]—BIOLOGICAL PRODUCTS

### REGULATION OF BIOLOGICAL PRODUCTS

42 U.S.C. 262

SEC. 351.[74] (a) No person shall sell, barter, or exchange, or offer for sale, barter, or exchange in the District of Columbia, or send, carry, or bring for sale, barter, or exchange from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession, any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man, unless (1) such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product has been propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license, issued by the Secretary as hereinafter authorized, to propagate or manufacture, and prepare such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product for sale in the District of Columbia, or for sending, bringing, or carrying from place to place aforesaid; and (2) each package of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product is plainly marked with the proper name of the article contained therein, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected beyond reasonable doubt to yield their specific results. The suspension or revocation of any license shall not prevent the sale, barter, or exchange of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid which has been sold and delivered by the licensee prior to such suspension or revocation, unless the owner or custodian of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product afore-

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[72] Title of part F changed by sec. 2 of P.L. 90–602.
[73] Subpt. 1 designated by sec. 2 of P.L. 90–602.
[74] Sec. 351 amended by sec. 291 of P.L. 91–515 by inserting after "antitoxin", each time such word appears, "vaccine, blood, blood component or derivative, allergenic product,".

said has been notified by the Secretary not to sell, barter, or exchange the same.

(b) No person shall falsely label or mark any package or container or any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid so as to falsify such label or mark.

(c) Any officer, agent, or employee of the Department of Health, Education, and Welfare, authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.

(d)[75] Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishment for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.

(e) No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding $500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Nothing contained in this Act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act (U.S.C., 1940 edition, title 21, ch. 9).

[75] Sec. 351(d) was amended by sec. 2 of P.L. 85–881.

PREPARATION OF BIOLOGICAL PRODUCTS

42 U.S.C. 263

SEC. 352. (a) The Service may prepare for its own use any product described in section 351 and any product necessary to carrying out any of the purposes of section 301.

(b) The Service may prepare any product described in section 351 for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section.

SUBPART 2 [76]—CLINICAL LABORATORIES

LICENSING OF LABORATORIES

42 U.S.C. 263a

SEC. 353.[77, 78] (a) As used in this section—

(1) the term "laboratory" or "clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body, for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, man;

(2) The term "interstate commerce" means trade, traffic, commerce, transportation, transmission, or communication between any State or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

(b) (1) No person may solicit or accept in interstate commerce, directly or indirectly, any specimen for laboratory examination or other laboratory procedures, unless there is in effect a license for such laboratory issued by the Secretary under this section applicable to such procedures.

(2) The Secretary shall by regulation exempt from the provisions of this section laboratories whose operations are so small or infrequent as not to constitute a significant threat to the public health.

(c) A license issued by the Secretary under this section may be applicable to all laboratory procedures or only to

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[76] Subpart 2 designation added by sec. 2(2) of P.L. 90–602.

[77] Sec. 353 added by sec. 5(a) of P.L. 90–174. (Sec. 5(c) of P.L. 90–174 stated that this section may be cited as the "Clinical Laboratories Improvement Act of 1967".)

[78] The amendment made by subsec. (a) shall become effective on the first day of the 13th month after the month in which it is enacted, except that the Secretary of Health, Education, and Welfare may postpone such effective date for such additional period as he finds necessary, but not beyond the first day of the 19th month after such month in which the amendment is enacted.

specified laboratory procedures or categories of laboratory procedures.

(d)(1) A license shall not be issued in the case of any clinical laboratory unless (A) the application therefor contains or is accompanied by such information as the Secretary finds necessary, and (B) the applicant agrees and the Secretary determines that such laboratory will be operated in accordance with standards found necessary by the Secretary to carry out the purposes of this section. Such standards shall be designed to assure consistent performance by the laboratories of accurate laboratory procedures and services, and shall include, among others, standards to assure—

(i) maintenance of a quality control program adequate and appropriate for accuracy of the laboratory procedures and services;

(ii) maintenance of records, equipment, and facilities necessary to proper and effective operation of the laboratory;

(iii) qualifications of the director of the laboratory and other supervisory professional personnel necessary for adequate and effective professional supervision of the operation of the laboratory (which shall include criteria relating to the extent to which training and experience shall be substituted for education); and

(iv) participation in a proficiency testing program established by the Secretary.

Period of validity

(2) A license issued under this section shall be valid for a period of three years, or such shorter period as the Secretary may establish for any clinical laboratory or any class or classes thereof; and may be renewed in such manner as the Secretary may prescribe. The provisions of this section requiring licensing shall not apply to a clinical laboratory in a hospital accredited by the Joint Commission on the Accreditation of Hospitals or by the American Osteopathic Association, or a laboratory which has been inspected and accredited by such commission or association, by the Commission on Inspection and Accreditation of the College of American Pathologists, or by any other national accreditation body approved for the purpose by the Secretary, but only if the standards applied by such commission, association, or other body in determining whether or not to accredit such hospital or laboratory are equal to or more stringent than the provisions of this section and the rules and regulations issued under this section, and only if there is adequate provision for assuring that such standards continue to be met by such hospital or laboratory; provided that any such laboratory shall be treated as a licensed laboratory for all other purposes of this section.

(3) The Secretary may require payment of fees for the

issuance and renewal of licenses, but the amount of any such fee shall not exceed $125 per annum.

(e) A laboratory license may be revoked, suspended, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any laboratory procedure or category of procedures not authorized in the license;

(3) has failed to comply with the standards with respect to laboratories and laboratory personnel prescribed by the Secretary pursuant to this section;

(4) has failed to comply with reasonable requests of the Secretary for any information or materials, or work on materials, he deems necessary to determine the laboratory's continued eligibility for its license hereunder or continued compliance with the Secretary's standards hereunder;

(5) has refused a request of the Secretary or any Federal officer or employee duly designated by him for permission to inspect the laboratory and its operations and pertinent records at any reasonable time; or

(6) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

Legal procedure

(f) Whenever the Secretary has reason to believe that continuation of any activity by a laboratory licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such laboratory is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond or by such court.

Judicial review

(g) (1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence. 72 Stat. 941; 80 Stat. 1323

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

(i) The provisions of this section shall not apply to any clinical laboratory operated by a licensed physician, osteopath, dentist, or podiatrist, or group thereof, who performs or perform laboratory tests or procedures, personally or through his or their employees, solely as an adjunct to the treatment of his or their own patients; nor shall such provisions apply to any laboratory with respect to tests or other procedures made by it for any person engaged in the business of insurance if made solely for purposes of determining whether to write an insurance contract or of determining eligibility or continued eligibility for payments thereunder.

(j) In carrying out his functions under this section, the Secretary is authorized, pursuant to agreement, to utilize the services or facilities of any Federal or State or local public agency or nonprofit private agency or organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as he may determine.

(k) Nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with the provisions of this section or with the rules and regulations issued under this section.

(l) Where a State has enacted or hereafter enacts laws relating to matters covered by this section, which provide for standards equal to or more stringent than the provisions of this section or than the rules and regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

SUBPART 3 [79]—ELECTRONIC PRODUCT RADIATION CONTROL

DECLARATION OF PURPOSE

42 U.S.C. 263b

SEC. 354. The Congress hereby declares that the public health and safety must be protected from the dangers of electronic product radiation. Thus, it is the purpose of this subpart to provide for the establishment by the Secretary of an electronic product radiation control program which shall include the development and administration of performance standards to control the emission of electronic product radiation from electronic products and the undertaking by public and private organizations of research and investigation into the effects and control of such radiation emissions.

DEFINITIONS

42 U.S.C. 263c

SEC. 355. As used in this subpart—

(1) the term "electronic product radiation" means—

(A) any ionizing or non-ionizing electromagnetic or particulate radiation, or

(B) any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product;

(2) the term "electronic product" means (A) any manufactured or assembled product which, when in operation, (i) contains or acts as part of an electronic circuit and (ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or (B) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in clause (A) and which when in operation emits (or

[79] Subpt. 3 added by sec. 2(3) of P.L. 90–602. Sec. 4 of P.L. 90–602 states that these amendments shall not be construed as superseding or limiting the functions, under any other provision of law, of any officer or agency of the United States.

in the absence of effective shielding or other controls would emit) such radiation;

(3) the term "manufacturer" means any person engaged in the business of manufacturing, assembling, or importing of electronic products;

(4) the term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia; and

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

ELECTRONIC PRODUCT RADIATION CONTROL PROGRAM

SEC. 356. (a) The Secretary shall establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation. As a part of such program, he shall— 42 U.S.C. 263d

(1) pursuant to section 358, develop and administer performance standards for electronic products;

(2) plan, conduct, coordinate, and support research, development, training, and operational activities to minimize the emissions of and the exposure of people to, unnecessary electronic product radiation;

(3) maintain liaison with and receive information from other Federal and State departments and agencies with related interests, professional organizations, industry, industry and labor associations, and other organizations on present and future potential electronic product radiation;

(4) study and evaluate emissions of, and conditions of exposure to, electronic product radiation and intense magnetic fields;

(5) develop, test, and evaluate the effectiveness of procedures and techniques for minimizing exposure to electronic product radiation; and

(6) consult and maintain liaison with the Secretary of Commerce, the Secretary of Defense, the Secretary of Labor, the Atomic Energy Commission, and other appropriate Federal departments and agencies on (A) techniques, equipment, and programs for testing and evaluating electronic product radiation, and (B) the development of performance standards pursuant to section 358 to control such radiation emissions.

(b) In carrying out the purposes of subsection (a), the Secretary is authorized to—

(1) (A) collect and make available, through publications and other appropriate means, the results of, and other information concerning, research and

studies relating to the nature and extent of the hazards and control of electronic product radiation; and (B) make such recommendations relating to such hazards and control as he considers appropriate;

(2) make grants to public and private agencies, organizations, and institutions, and to individuals for the purposes stated in paragraphs (2), (4), and (5) of subsection (a) of this section;

(3) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5); and

(4) procure (by negotiation or otherwise) electronic products for research and testing purposes, and sell or otherwise dispose of such products.

(c) (1) Each recipient of assistance under this subpart pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to the grants or contracts entered into under this subpart under other than competitive bidding procedures.

STUDIES BY THE SECRETARY

42 U.S.C. 263e

SEC. 357. (a) The Secretary shall conduct the following studies, and shall make a report or reports of the results of such studies to the Congress on or before January 1, 1970, and from time to time thereafter as he may find necessary, together with such recommendations for legislation as he may deem appropriate:

(1) A study of present State and Federal control of health hazards from electronic product radiation and other types of ionizing radiation, which study shall include, but not be limited to—

(A) control of health hazards from radioactive materials other than materials regulated under the Atomic Energy Act of 1954;

(B) any gaps and inconsistencies in present controls;

(C) the need for controlling the sale of certain used electronic products, particularly antiquated X-ray equipment, without upgrading such products to meet the standards for new products or separate standards for used products;

(D) measures to assure consistent and effective control of the aforementioned health hazards;

(E) measures to strengthen radiological health programs of State governments; and

(F) the feasibility of authorizing the Secretary to enter into arrangements with individual States or groups of States to define their respective functions and responsibilities for the control of electronic product radiation and other ionizing radiation;

(2) A study to determine the necessity for the development of standards for the use of nonmedical electronic products for commercial and industrial purposes; and

(3) A study of the development of practicable procedures for the detection and measurement of electronic product radiation which may be emitted from electronic products manufactured or imported prior to the effective date of any applicable standard established pursuant to this subpart.

(b) In carrying out these studies, the Secretary shall invite the participation of other Federal departments and agencies having related responsibilities and interests, State governments—particularly those of States which regulate radioactive materials under section 274 of the Atomic Energy Act of 1954, as amended, and interested professional, labor, and industrial organizations. Upon request from congressional committees interested in these studies, the Secretary shall keep these committees currently informed as to the progress of the studies and shall permit the committees to send observers to meetings of the study groups.

(c) The Secretary or his designee shall organize the studies and the participation of the invited participants as he deems best. Any dissent from the findings and recommendations of the Secretary shall be included in the report if so requested by the dissenter.

PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS

42 U.S.C. 263f

SEC. 358. (a)(1) The Secretary shall by regulation prescribe performance standards for electronic products to control the emission of electronic product radiation from such products if he determines that such standards are necessary for the protection of the public health and safety. Such standards may include provisions for the testing of such products and the measurement of their electronic product radiation emissions, may require the attachment of warning signs and labels, and may require the provision of instructions for the installation, opera-

tion, and use of such products. Such standards may be prescribed from time to time whenever such determinations are made, but the first of such standards shall be prescribed prior to January 1, 1970. In the development of such standards, the Secretary shall consult with Federal and State departments and agencies having related responsibilities or interests and with appropriate professional organizations and interested persons, including representatives of industries and labor organizations which would be affected by such standards, and shall give consideration to—

(A) the latest available scientific and medical data in the field of electronic product radiation;

(B) the standards currently recommended by (i) other Federal agencies having responsibilities relating to the control and measurement of electronic product radiation, and (ii) public or private groups having an expertise in the field of electronic product radiation;

(C) the reasonableness and technical feasibility of such standards as applied to a particular electronic product;

(D) the adaptability of such standards to the need for uniformity and reliability of testing and measuring procedures and equipment; and

(E) in the case of a component, or accessory described in paragraph (2) (B) of section 355, the performance of such article in the manufactured or assembled product for which it is designed.

(2) The Secretary may prescribe different and individual performance standards, to the extent appropriate and feasible, for different electronic products so as to recognize their different operating characteristics and uses.

(3) The performance standards prescribed under this section shall not apply to any electronic product which is intended solely for export if (A) such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that such product is intended for export, and (B) such product meets all the applicable requirements of the country to which such product is intended for export.

(4) The Secretary may by regulation amend or revoke any performance standard prescribed under this section.

(5) The Secretary may exempt from the provisions of this section any electronic product intended for use by departments or agencies of the United States provided such department or agency has prescribed procurement specifications governing emissions of electronic product radiation and provided further that such product is of a type used solely or predominantly by departments or agencies of the United States.

(b) The provisions of subchapter II of chapter 5 of title 5 of the United States Code (relating to the administrative procedure for rulemaking), and of chapter 7 of such title (relating to judicial review), shall apply with respect to any regulation prescribing, amending, or revoking any standard prescribed under this section.

(c) Each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect which, in the case of any regulation prescribing, or amending any standard, may not be sooner than one year or not later than two years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier or later date shall apply.

(d) (1) In a case of actual controversy as to the validity of any regulation issued under this section prescribing, amending, or revoking a performance standard, any person who will be adversely affected by such regulation when it is effective may at any time prior to the sixtieth day after such regulation is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such regulation. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the regulation, as provided in section 2112 of title 28 of the United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original regulation, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the regulation in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the

Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(e) A certified copy of the transcript of the record and administrative proceedings under this section shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this subpart, irrespective of whether proceedings with respect to the regulation have previously been initiated or become final under this section.

(f) (1) (A) The Secretary shall establish a Technical Electronic Product Radiation Safety Standards Committee (hereafter in this subpart referred to as the "Committee") which he shall consult before prescribing any standard under this section. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of electronic product radiation safety, and shall be composed of fifteen members each of whom shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety, as follows:

(i) Five members shall be selected from governmental agencies, including State and Federal Governments;

(ii) Five members shall be selected from the affected industries after consultation with industry representatives; and

(iii) Five members shall be selected from the general public, of which at least one shall be a representative of organized labor.

(B) The Committee may propose electronic product radiation safety standards to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(2) [80] Payments to members of the Committee who are not officers or employees of the United States pursuant to subsection (c) of section 208 of this Act shall not render members of the Committee officers or employees of the United States for any purpose.

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[80] Sec. 358(f)(2) amended by sec. 601(b) (2) and (3) of P.L. 91–515.

(g) The Secretary shall review and evaluate on a continuing basis testing programs carried out by industry to assure the adequacy of safeguards against hazardous electronic product radiation and to assure that electronic products comply with standards prescribed under this section.

(h) Every manufacturer of an electronic product to which is applicable a standard in effect under this section shall furnish to the distributor or dealer at the time of delivery of such product, in the form of a label or tag permanently affixed to such product or in such manner as approved by the Secretary, the certification that such product conforms to all applicable standards under this section. Such certification shall be based upon a test, in accordance with such standard, of the individual article to which it is attached or upon a testing program which is in accord with good manufacturing practice and which has not been disapproved by the Secretary (in such manner as he shall prescribe by regulation) on the grounds that it does not assure the adequacy of safeguards against hazardous electronic product radiation or that it does not assure that electronic products comply with the standards prescribed under this section.

NOTIFICATION OF DEFECTS IN, AND REPAIR OR REPLACEMENT OF, ELECTRONIC PRODUCTS

SEC. 359. (a)(1) Every manufacturer of electronic products, who discovers that an electronic product produced, assembled, or imported by him has a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, or that an electronic product produced, assembled, or imported by him on or after the effective date of an applicable standard prescribed pursuant to section 358 fails to comply with such standard, shall immediate notify the Secretary of such defect or failure to comply if such product has left the place of manufacture and shall (except as authorized by paragraph (2)) with reasonable promptness furnish notification of such defect or failure to the persons (where known to the manufacturer) specified in subsection (b) of this section. 42 U.S.C. 263g

(2) If, in the opinion of such manufacturer, the defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he may, at the time of giving notice to the Secretary of such defect or failure to comply, apply to the Secretary for an exemption from the requirement of notice to the persons specified in subsection (b). If such application states reasonable grounds for such exemption, the Secretary shall afford such manufacturer an opportunity to present his views and evidence in support of the application, the burden of proof being on the manufacturer.

If, after such presentation, the Secretary is satisfied that such defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he shall exempt such manufacturer from the requirement of notice to the persons specified in subsection (b) of this section and from the requirements of repair or replacement imposed by subsection (f) of this section.

(b) The notification (other than to the Secretary) required by paragraph (1) of subsection (a) of this section shall be accomplished—

(1) by certified mail to the first purchaser of such product for purposes other than resale, and to any subsequent transferee of such product; and

(2) by certified mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such product was delivered.

(c) The notifications required by paragraph (1) of subsection (a) of this section shall contain a clear description of such defect or failure to comply with an applicable standard, an evaluation of the hazard reasonably related to such defect or failure to comply, and a statement of the measures to be taken to repair such defect. In the case of a notification to a person referred to in subsection (b) of this section, the notification shall also advise the person of his rights under subsection (f) of this section.

(d) Every manufacturer of electronic products shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers or distributors of such manufacturer or to purchasers (or subsequent transferees) of electronic products of such manufacturer regarding any such defect in such product or any such failure to comply with a standard applicable to such product. The Secretary shall disclose to the public so much of the information contained in such notice or other information obtained under section 360A as he deems will assist in carrying out the purposes of this subpart, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code unless he determines that it is necessary to carry out the purposes of this subpart.

(e) If through testing, inspection, investigation, or research carried out pursuant to this subpart, or examination of reports submitted pursuant to section 360A, or otherwise, the Secretary determines that any electronic product—

(1) does not comply with an applicable standard prescribed pursuant to section 358; or

(2) contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation;

he shall immediately notify the manufacturer of such product of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not exist or does not relate to safety of use of the product by reason of the emission of such radiation hazard. If after such presentation by the manufacturer the Secretary determines that such product does not comply with an applicable standard prescribed pursuant to section 358, or that it contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the persons specified in paragraphs (1) and (2) of subsection (b) of this section (where known to the manufacturer), unless the manufacturer has applied for an exemption from the requirement of such notification on the ground specified in paragraph (2) of subsection (a) and the Secretary is satisfied that such noncompliance or defect is not such as to create a significant risk of injury, including genetic injury, to any person.

(f) If any electronic product is found under subsection (a) or (e) to fail to comply with an applicable standard prescribed under this subpart or to have a defect which relates to the safety of use of such product, and the notification specified in subsection (c) is required to be furnished on account of such failure or defect, the manufacturer of such product shall (1) without charge, bring such product into conformity with such standard or remedy such defect and provide reimbursement for any expenses for transportation of such product incurred in connection with having such product brought into conformity or having such defect remedied, (2) replace such product with a like or equivalent product which complies with each applicable standard prescribed under this subpart and which has no defect relating to the safety of its use, or (3) make a refund of the cost of such product. The manufacturer shall take the action required by this subsection in such manner, and with respect to such persons, as the Secretary by regulations shall prescribe.

(g) This section shall not apply to any electronic product that was manufactured before the date of the enactment of this subpart.

IMPORTS

SEC. 360. (a) Any electronic product offered for importation into the United States which fails to comply with an applicable standard prescribed under this subpart, or 42 U.S.C. 263h

to which is not affixed a certification in the form of a label or tag in conformity with section 358(h) shall be refused admission into the United States. The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter's request, samples of electronic products which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may have a hearing before the Secretary of Health, Education, and Welfare. If it appears from an examination of such samples or otherwise that any electronic product fails to comply with applicable standards prescribed pursuant to section 358, then, unless subsection (b) of this section applies and is complied with, (1) such electronic product shall be refused admission, and (2) the Secretary of the Treasury shall cause the destruction of such electronic product unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days after the date of notice of refusal of admission or within such additional time as may be permitted by such regulations.

(b) If it appears to the Secretary of Health, Education, and Welfare that any electronic product refused admission pursuant to subsection (a) of this section can be brought into compliance with applicable standards prescribed pursuant to section 358, final determination as to admission of such electronic product may be deferred upon filing of timely written application by the owner or consignee and the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as the Secretary of Health, Education, and Welfare may by regulation prescribe. If such application is filed and such bond is executed the Secretary of Health, Education, and Welfare may, in accordance with rules prescribed by him, permit the applicant to perform such operations with respect to such electronic product as may be specified in the notice of permission.

(c) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of operations provided for in subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any electronic product refused admission pursuant to subsection (a) of this section, shall be paid by the owner or consignee, and, in event of default, shall constitute a lien against any future importations made by such owner or consignee.

(d) It shall be the duty of every manufacturer offering an electronic product for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices,

orders, decisions, and requirements may be made for and on behalf of said manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon said manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon said manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subpart or any standards prescribed pursuant to this subpart may be made by posting such process, notice, order, requirement, or decision in the Office of the Secretary or in a place designated by him by regulation.

[INSPECTION AND REPORTS]

SEC. 360A. (a) If the Secretary finds for good cause that the methods, tests, or programs related to electronic product radiation safety in a particular factory, warehouse, or establishment in which electronic products are manufactured or held, may not be adequate or reliable, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are thereafter authorized (1) to enter, at reasonable times, any area in such factory, warehouse, or establishment in which the manufacturer's tests (or testing programs) required by section 358(h) are carried out, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, the facilities and procedures within such area which are related to electronic product radiation safety. Each such inspection shall be commenced and completed with reasonable promptness. In addition to other grounds upon which good cause may be found for purposes of this subsection, good cause will be considered to exist in any case where the manufacturer has introduced into commerce any electronic product which does not comply with an applicable standard prescribed under this subpart and with respect to which no exemption from the notification requirements has been granted by the Secretary under section 359(a)(2) or 359(e).

(b) Every manufacturer of electronic products shall establish and maintain such records (including testing records), make such reports, and provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this subpart and standards prescribed pursuant to this subpart and shall, upon request of an officer or employee duly designated by the

Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with standards prescribed pursuant to this subpart.

(c) Every manufacturer of electronic products shall provide to the Secretary such performance data and other technical data related to safety as may be required to carry out the purposes of this subpart. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data at the time of original purchase to the ultimate purchaser of the electronic product, as he determines necessary to carry out the purposes of this subpart after consulting with the affected industry.

(d) Accident and investigation reports made under this subpart by any officer, employee, or agent of the Secretary shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the fact developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) The Secretary or his representative shall not disclose any information reported to or otherwise obtained by him, pursuant to subsection (a) or (b) of this section, which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, except that such information may be disclosed to other officers or employees of the Department and of other agencies concerned with carrying out this subpart or when relevant in any proceeding under this subpart. Nothing in this section shall authorize the withholding of information by the Secretary, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(f) The Secretary may by regulation (1) require dealers and distributors of electronic products, to which there are applicable standards prescribed under this subpart and the retail prices of which is not less than $50, to furnish manufacturers of such products such information as may be necessary to identify and locate, for purposes of section 359, the first purchasers of such products for purposes other than resale, and (2) require manufacturers to preserve such information. Any regulation establishing a requirement pursuant to clause (1) of the preceding sentence shall (A) authorize such dealers and distributors to elect, in lieu of immediately furnishing

such information to the manufacturer, to hold and preserve such information until advised by the manufacturer or Secretary that such information is needed by the manufacturer for purposes of section 359, and (B) provide that the dealer or distributor shall, upon making such election, give prompt notice of such election (together with information identifying the notifier and the product) to the manufacturer and shall, when advised by the manufacturer or Secretary, of the need therefor for the purposes of section 359, immediately furnish the manufacturer with the required information. If a dealer or distributor discontinues the dealing in or distribution of electronic products, he shall turn the information over to the manufacturer. Any manufacturer receiving information pursuant to this subsection concerning first purchasers of products for purposes other than resale shall treat it as confidential and may use it only if necessary for the purpose of notifying persons pursuant to section 359(a).

PROHIBITED ACTS

SEC. 360B. (a) It shall be unlawful— 42 U.S.C. 263j

(1) for any manufacturer to introduce, or to deliver for introduction, into commerce, or to import into the United States, any electronic product which does not comply with an applicable standard prescribed pursuant to section 358;

(2) for any person to fail to furnish any notification or other material or information required by section 359 or 360A; or to fail to comply with the requirements of section 359(f);

(3) for any person to fail or to refuse to establish or maintain records required by this subpart or to permit access by the Secretary or any of his duly authorized representatives to, or the copying of, such records, or to permit entry or inspection, as required by or pursuant to section 360A;

(4) for any person to fail or to refuse to make any report required pursuant to section 360A(b) or to furnish or preserve any information required pursuant to section 360A(f); or

(5) for any person (A) to fail to issue a certification as required by section 358(h), or (B) to issue such a certification when such certification is not based upon a test or testing program meeting the requirements of section 358(h) or when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect.

(b) The Secretary may exempt any electronic product, or class thereof, from all or part of subsection (a), upon such conditions as he may find necessary to protect the

public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

ENFORCEMENT

42 U.S.C. 263k

SEC. 360C. (a) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of section 360B and to restrain dealers and distributors of electronic products from selling or otherwise disposing of electronic products which do not conform to an applicable standard prescribed pursuant to section 358 except when such products are disposed of by returning them to the distributor or manufacturer from whom they were obtained. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce the provisions of subsection (b) of this section.

(b)(1) Any person who violates section 360B shall be subject to a civil penalty of not more than $1,000. For purposes of this subsection, any such violation shall with respect to each electronic product involved, or with respect to each act or omission made unlawful by section 360B, constitute a separate violation, except that the maximum civil penalty imposed on any person under this subsection for any related series of violations shall not exceed $300,000.

(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

(c) Actions under subsections (a) and (b) of this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

(e) Except as provided in the first sentence of section 360F, compliance with this subpart or any regulations issued thereunder shall not relieve any person from liability at common law or under statutory law.

(f) The remedies provided for in this subpart shall be in addition to and not in substitution for any other remedies provided by law.

ANNUAL REPORT

SEC. 360D. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this subpart for the preceding calendar year. Such report shall include— 42 U.S.C. 2631

(1) a thorough appraisal (including statistical analyses, estimates, and long-term projections) of the incidence of biological injury and effects, including genetic effects, to the population resulting from exposure to electronic product radiation, with a breakdown, insofar as practicable, among the various sources of such radiation;

(2) a list of Federal electronic product radiation control standards prescribed or in effect in such year, with identification of standards newly prescribed during such year;

(3) an evaluation of the degree of observance of applicable standards, including a list of enforcement actions, court decisions, and compromises of alleged violations by location and company name;

(4) a summary of outstanding problems confronting the administration of this subpart in order of priority;

(5) an analysis and evaluation of research activities completed as a result of Government and private sponsorship, and technological progress for safety achieved during such year;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this subpart;

(7) the extent to which technical information was disseminated to the scientific, commercial, and labor community and consumer-oriented information was made available to the public; and

(8) the extent of cooperation between Government officials and representatives of industry and other interested parties in the implementation of this subpart including a log or summary of meetings held between Government officials and representatives of industry and other interested parties.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of electronic product radiation control and to strengthen the national electronic product radiation control program.

FEDERAL-STATE COOPERATION

42 U.S.C. 263m

SEC. 360E. The Secretary is authorized (1) to accept from State and local authorities engaged in activities related to health or safety or consumer protection, on a reimbursable basis or otherwise, any assistance in the administration and enforcement of this subpart which he may request and which they may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and (2) he may, for the purpose of conducting examinations, investigations, and inspections, commission any officer or employee of any such authority as an officer of the Department.

EFFECT ON STATE STANDARDS

42 U.S.C. 263n

SEC. 360F. Whenever any standard prescribed pursuant to section 358 with respect to an aspect of performance of an electronic product is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any standard which is applicable to the same aspect of performance of such product and which is not identical to the Federal standard. Nothing in this subpart shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a requirement with respect to emission of radiation from electronic products procured for its own use if such requirement imposes a more restrictive standard than that required to comply with the otherwise applicable Federal standard.

## PART G—QUARANTINE AND INSPECTION

CONTROL OF COMMUNICABLE DISEASES

42 U.S.C. 264

SEC. 361. (a) The Surgeon General, with the approval of the Secretary is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of

such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) [81] Except as provided in subsection (d), regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary.

SUSPENSION OF ENTRIES AND IMPORTS FROM DESIGNATED PLACES

SEC. 362. Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose. 42 U.S.C. 265

SPECIAL POWERS IN TIME OF WAR

SEC. 363.[82] To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 361, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations 42 U.S.C. 266

[81] Subsec. (c) amended by subsec. 29(c) and subsec. 47(f) of P.L. 86-624.

[82] Under sec. 3 of P.L. 239, 80th Congress, the date of July 25, 1947, is deemed, for purposes of this section, to be the date of termination of "any state of war heretofore declared by the Congress".

for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.

42 U.S.C. 267

QUARANTINE STATIONS

SEC. 364. (a) Except as provided in title II of the Act of June 15, 1917, as amended (U.S.C., 1940 edition, title 50, secs. 191–194), the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.

(c) [83] [84] The Surgeon General shall fix a reasonable rate of extra compensation for overtime services of employees of the United States Public Health Service, Foreign Quarantine Division, performing overtime duties including the operation of vessels, in connection with

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[83] Subsecs. (c) and (d) added by ch. VII, P.L. 85–58.
[84] Sec. 364(c) amended by P.L. 85–580.

the inspection or quarantine treatment of persons (passengers and crews), conveyances, or goods arriving by land, water, or air in the United States or any place subject to the jurisdiction thereof, hereinafter referred to as "employees of the Public Health Service", when required to be on duty between the hours of 6 o'clock postmeridian and 6 o'clock antemeridian (or between the hours of 7 o'clock postmeridian and 7 o'clock antemeridian at stations which have a declared workday of from 7 o'clock antemeridian to 7 o'clock postmeridian), or on Sundays or holidays, such rate, in lieu of compensation under any other provision of law, to be fixed at two times the basic hourly rate for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian, and two times the basic hourly rate for each overtime hour worked on Sundays or holidays. As used in this subsection, the term "basic hourly rate" shall mean the regular basic rate of pay which is applicable to such employees for work performed within their regular scheduled tour of duty.

(d) (1) [83] The said extra compensation shall be paid to the United States by the owner, agent, consignee, operator, or master or other person in charge of any conveyance, for whom, at his request, services as described in this subsection (hereinafter referred to as overtime service) are performed. If such employees have been ordered to report for duty and have so reported, and the requested services are not performed by reason of circumstances beyond the control of the employees concerned, such extra compensation shall be paid on the same basis as though the overtime services had actually been performed during the period between the time the employees were ordered to report for duty and did so report, and the time they were notified that their services would not be required, and in any case as though their services had continued for not less than one hour. The Surgeon General with the approval of the Secretary of Health, Education, and Welfare may prescribe regulations requiring the owner, agent, consignee, operator, or master or other person for whom the overtime services are performed to file a bond in such amounts and containing such conditions and with such sureties, or in lieu of a bond, to deposit money or obligations of the United States in such amount, as will assure the payment of charges under this subsection, which bond or deposit may cover one or more transactions or all transactions during a specified period: *Provided*, That no charges shall be made for services performed in connection with the inspection of (1) persons arriving by international highways, ferries, bridges, or tunnels, or the conveyances in which they arrive, or (2) persons arriving by aircraft or railroad trains, the operations of

which are covered by published schedules, or the aircraft or trains in which they arrive, or (3) persons arriving by vessels operated between Canadian ports and ports on Puget Sound or operated on the Great Lakes and connecting waterways, the operations of which are covered by published schedules, or the vessels in which they arrive.

(2) Moneys collected under this subsection shall be deposited in the Treasury of the United States to the credit of the appropriation charged with the expense of the services, and the appropriations so credited shall be available for the payment of such compensation to the said employees for services so rendered.

CERTAIN DUTIES OF CONSULAR AND OTHER OFFICERS

42 U.S.C. 268

SEC. 365. (a) Any consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services.

BILLS OF HEALTH

42 U.S.C. 269

SEC. 366. (a) Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c). Before granting such duplicate bill of health, such consular or medical officer shall be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

(b) Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the

time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

(c) The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be observed by such vessels prior to departure, during the course of the voyage, and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

(d) The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

(e) It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations prescribed under subsection (c) have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station.

CIVIL AIR NAVIGATION AND CIVIL AIRCRAFT

SEC. 367. The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 364, 365, and 366 and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health. 42 U.S.C. 270

PENALTIES

SEC. 368. (a) Any person who violates any regulation prescribed under sections 361, 362, or 363, or any 42 U.S.C. 271

provision of section 366 or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

(b) Any vessel which violates section 366, or any regulations thereunder or under section 364, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than $5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered by proceedings in the proper district court of the United States. In all such proceedings the United States attorney shall appear on behalf of the United States; and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) With the approval of the Secretary, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications.

ADMINISTRATION OF OATHS

42 U.S.C. 272

SEC. 369. Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States.

## PART H—GRANTS TO ALASKA FOR MENTAL HEALTH [85]

GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

42 U.S.C. 274

SEC. 371.[86] * * *

PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

SEC. 372. (a) [87] There is authorized to be appropriated an amount not exceeding the total sum of $6,500,000, to remain available until expended, to enable the Surgeon General to make payments to Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facili-

[85] Part H was added by P.L. 830, 84th Congress.
[86] Sec. 371 as added by the Alaska Mental Health Enabling Act (P.L. 830, 84th Congress) was repealed by subsec. 31(b)(1) of P.L. 86–70.
[87] Subsecs. 372(a), (b), (c), and (e) amended by subsecs. 31(a) (2), (3), and (4) of P.L. 86–70.

ties in Alaska needed for the carrying out of a comprehensive mental health program.

(b) [87] Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by Alaska in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

(c) [87] Upon certification by Alaska, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided however*, That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

(d) The term "cost of construction" means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

(e) [87] If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under Alaska's mental health program, the United States shall be entitled to recover from Alaska the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which Alaska may have contributed to the cost of construction thereof.

## Part I—National Library of Medicine [89]

### Purpose and establishment of library

Sec. 381.[90] In order to assist the advancement of medical and related sciences, and to aid the dissemination and exchange of scientific and other information important to the progress of medicine and to the public health, there 42 U.S.C. 275

[89] Part H redesignated as Part I by sec. 10(a)(2), P.L. 91–212, was originally added by P.L. 941, 84th Congress.

[90] Secs. 371 and 372 redesignated as secs. 381 and 382 respectively by sec. 10(a)(3), of P.L. 91–212.

is hereby established in the Public Health Service a National Library of Medicine (hereinafter referred to in this part as the "Library").

FUNCTIONS OF THE LIBRARY

42 U.S.C. 276

SEC. 382.[90,91] (a) The [Secretary], through the Library and subject to the provisions of subsection (c), shall—

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials, pertinent to medicine;

(2) organize the materials specified in clause (1) by appropriate cataloging, indexing, and bibliographical listing;

(3) publish and make available the catalogs, indexes, and bibliographies referred to in clause (2);

(4) make available, through loans, photographic or other copying procedures or otherwise, such materials in the Library as he deems appropriate;

(5) provide reference and research assistance; and

(6) engage in such other activities in furtherance of the purposes of this part as he deems appropriate and the Library's resources permit.

(b) The [Secretary] may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(c)[92] The [Secretary] is authorized, after obtaining the advice and recommendations of the Board (established under section 383), to prescribe rules under which the Library will provide copies of its publications or materials, or will make available its facilities for research or its bibliographic, reference, or other services, to public and private agencies and organizations, institutions, and individuals. Such rules may provide for making available such publications, materials, facilities, or services (1) without charge as a public service, or (2) upon a loan, exchange, or charge basis, or (3) in appropriate circumstances, under contract arrangements made with a public or other nonprofit agency, organization, or institution.

BOARD OF REGENTS

42 U.S.C. 277

SEC. 383.[93,94] (a) There is hereby established in the Public Health Service a Board of Regents of the National Library of Medicine (referred to in this part as the

[91] Redesignated sec. 382 amended by sec. 10(d)(1) of P.L. 91–212, to strike out "Surgeon General" each place it occurred therein (the intent was to replace "Surgeon General" with "Secretary" though it is not so stated).

[92] Sec. 382(c) amended by sec. 10(b)(1) of P.L. 91–212.

[93] Sec. 373 redesignated as sec. 383 by sec. 10(a)(3) of P.L. 91–212.

[94] Redesignated sec. 383 amended by sec. 10(d)(1) of P.L. 91–212, to strike out "Surgeon General" each place it occurred therein (the intent was to replace "Surgeon General" with "Secretary" though it is not so stated).

"Board") consisting of the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, the Assistant Director for Biological and Medical Sciences of the National Science Foundation, and the Librarian of Congress, all of whom shall be ex officio members and ten members appointed by the President, by and with the advice and consent of the Senate. The ten appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public health, hospital administration, pharmacology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of medical, dental, or public health research or education. The Board shall annually elect one of the appointed members to serve as Chairman until the next election. The [Secretary] shall designate a member of the Library staff to act as executive secretary of the Board.

(b) It shall be the duty of the Board to advise, consult with, and make recommendations to the [Secretary] on important matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users, and the [Secretary] shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The [Secretary] is authorized to use the services of any member or members of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as he may determine.

(c) Each appointed member of the Board shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office after the date of enactment of this part shall expire as follows: three at the end of four years after such date, three at the end of three years after such date, two at the end of two years after such date, and two at the end of one year after such date, as designated by the President at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term.

(d) [95] Appointed members of the Board who are not

[95] Redesignated sec. 383 amended by sec. 10(d)(1) of P.L. 91–212, to strike out "Surgeon General" each place it occurred therein (the intent was to replace "Surgeon General" with "Secretary" though it is not so stated).

otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the [Secretary] shall be entitled to receive compensation at a rate to be fixed by the Secretary of Health, Education, and Welfare, but not exceeding $75 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

GIFTS TO LIBRARY

42 U.S.C. 278

SEC. 384.[96, 97] The provisions of section 501 shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of its functions, and the Board shall make recommendations to the Secretary of Health, Education, and Welfare relating to establishment within the Library of suitable memorials to the donors.

DEFINITIONS

42 U.S.C. 279

SEC. 385.[96, 98] For purposes of this part the terms "medicine" and "medical" shall, except when used in section 383, be understood to include preventive and therapeutic medicine, dentistry, pharmacy, hospitalization, nursing, public health, and the fundamental sciences related thereto, and other related fields of study, research, or activity.

LIBRARY FACILITIES

42 U.S.C. 280

SEC. 386.[96, 99] There are hereby authorized to be appropriated sums sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library in carrying out the provisions of this part. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the [Secretary] in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The sums herein authorized to be appropriated shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.

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[96] Secs. 374 through 376 redesignated as secs. 384 through 386, respectively, by sec. 10(a)(3) of P.L. 91–212.
[97] Redesignated sec. 384 amended by sec. 10(d)(1) of P.L. 91–212.
[98] Redesignated sec. 385 amended by sec. 10(b)(2) of P.L. 91–212.
[99] Redesignated sec. 386 amended by sec. 10(d)(1) of P.L. 91–212, to strike out "Surgeon General" (the intent was to replace "Surgeon General" with "Secretary" though it is not so stated).

TRANSFER OF ARMED FORCES MEDICAL LIBRARY

SEC. 387.[1] All civilian personnel, equipment, library collections, other personal property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Bureau of the Budget shall determine to relate primarily to the functions of the Armed Forces Medical Library, are hereby transferred to the Service for use in the administration and operation of this part. Such transfer of property, funds, and personnel, and the other provisions of this part, shall become effective on the first day, occurring not less than thirty days after the date of enactment of this part, which the Director of the Bureau of the Budget determines to be practicable.

REGIONAL BRANCHES OF THE NATIONAL LIBRARY OF MEDICINE

SEC. 388.[1, 2] (a) Whenever the [Secretary], with the advice of the Board, determines that— 42 U.S.C. 280a

(1) in any geographic area of the United States, there is no regional medical library adequate to serve such area;

(2) under the criteria prescribed in section 398,[3] there is a need for a regional medical library to serve such area; and

(3) because there is located in such area no medical library which, under the provisions of section 398 [3] can feasibly be developed into a regional medical library adequate to serve such area,

he is authorized to establish, as a branch of the National Library of Medicine, a regional medical library to serve the needs of such area.

(b) For the purpose of establishing branches of the National Library of Medicine under this section, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed $2,000,000 for any fiscal year, as may be necessary. Sums appropriated pursuant to this section for any fiscal year shall remain available until expended.

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[1] Secs. 377 and 378 redesignated as secs. 387 and 388, respectively, by sec. 10(a)(3) of P.L. 91–212.

[2] Redesignated sec. 388 amended by secs. 10(d)(1) of P.L. 91–212, to strike out "Surgeon General" (the intent was to replace "Surgeon General" with "Secretary" though it is not so stated). Original sec. 378 added by sec. 3 of P.L. 89–291.

[3] Sec. 10(c)(3) of P.L. 91–212, 3/13/70, redesignated sec. 398 as sec. 397 but no conforming change was made to this reference.

## Part J—Assistance to Medical Libraries [4]

### Declaration of Policy and Statement of Purpose

42 U.S.C. 280b

Sec. 390. (a) The Congress hereby finds and declares that (1) the unprecedented expansion of knowledge in the health sciences within the past two decades has brought about a massive growth in the quantity, and major changes in the nature of, biomedical information, materials, and publications; (2) there has not been a corresponding growth in the facilities and techniques necessary adequately to coordinate and disseminate among health scientists and practitioners the ever-increasing volume of knowledge and information which has been developed in the health science field; (3) much of the value of the ever-increasing volume of knowledge and information which has been, and continues to be, developed in the health science field will be lost unless proper measures are taken in the immediate future to develop facilities and techniques necessary to collect, preserve, store, process, retrieve, and facilitate the dissemination and utilization, of such knowledge and information.

(b) [5] It is therefore the policy of this part to—

(1) assist in the construction of new, and the renovation, expansion, or rehabilitation of existing medical library facilities;

(2) assist in the training of medical librarians and other information specialists in the health sciences;

(3) assist, through grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists, in the compilation of existing, and the creation of additional, written matter which will facilitate the distribution and utilization of knowledge and information relating to scientific, social, and cultural advancements in sciences related to health;

(4) assist in the conduct of research, investigations, and demonstrations in the field of medical library science and related activities, and in the development of new techniques, systems, and equipment for processing, storing, retrieving, and distributing information in the sciences related to health;

(5) assist in establishing, expanding, and improving the basic resources of medical libraries and related facilities;

(6) assist in the development of a national system of regional medical libraries each of which would

[4] Part I redesignated as part J by sec. 10(a)(1) of P.L. 91–212. Redesignated part J is amended by striking out "Surgeon General" each place it occurs and inserting "Secretary" by sec. 10(d)(2)(A) of P.L. 91–212.

[5] Sec. 390(b) amended by secs. 4, 5, and 6 of P.L. 91–212.

have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it; and

(7) provide financial support to biomedical scientific publications.

DEFINITIONS

SEC. 391. As used in this part— 42 U.S.C. 280b–1

(1) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto.

(2) [6] the terms "National Medical Libraries Assistance Advisory Board" and "Board" mean the Board of Regents of the National Library of Medicine established under section 383(a) of this Act;

(3) the terms "construction" and "cost of construction", when used with reference to any medical library facility, include (A) the construction of new buildings, and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings (whether or not expanded, remodeled, or altered) for use as a library (including provision of automatic data processing equipment), but not with books, pamphlets, or related material;

(4) the term "medical library" means a library related to the sciences related to health.

NATIONAL MEDICAL LIBRARIES ASSISTANCE BOARD

SEC. 392.[7] (a) The Board of Regents of the National Library of Medicine established pursuant to section 383 (a) shall, in addition to its functions prescribed under section 383, constitute and serve as the National Medical Libraries Assistance Advisory Board (hereinafter in this part referred to as the "Board"). 42 U.S.C. 280b–2

(b) The Board shall— Functions

(1) advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part, and

(2) consider all applications for construction grants under this part and make to the Secretary such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

[6] Sec. 391(2) amended by sec. 10(b)(3) of P.L. 91–212.
[7] Sec. 392(a) amended by sec. 10(b)(4)(A) and (B) of P.L. 91–212.

(c) The Secretary is authorized to use the services of any member or members of the Board, in connection with matters related to the administration of this part for such periods, in addition to conference periods, as he may determine.

Members, compensation

(d)[8] Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Secretary in connection with the administration of this part, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 383(d) when attending conferences, traveling, or serving at the request of the Secretary in connection with the administration of part I.

42 U.S.C. 275–280a

ASSISTANCE FOR CONSTRUCTION OF FACILITIES

42 U.S.C. 280–b Construction grants

SEC. 393. (a) In carrying out the purposes of section 390(b)(1), the Secretary may, upon application of any public or private nonprofit agency or institution, make grants to such agency or institution toward the cost of construction of any medical library facility to be constructed by such agency or institution.

Conditions for approval

(b) A grant under this section may be made only if the application therefor is recommended for approval by the Board and is approved by the Secretary upon his determination that—

(1) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used as a medical library facility, (B)[9] sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the purpose for which it is being constructed;

(2) the proposed construction is necessary to meet the demonstrated needs for additional or improved medical library facilities in the community or area in which the proposed construction is to take place;

(3) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on projects of the type covered by the Davis-Bacon Act, as amended, will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The

49 Stat. 1011; 78 Stat. 238

[8] Sec. 392(d) amended by secs. 10(b)(4)(C) and (D) of P.L. 91–212.
[9] Sec. 393(b)(1)(B) amended by sec. 3(1) of P.L. 91–212.

Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 42 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

5 U.S.C. 133z–15 Note
63 Stat. 108

(c) [10] In acting upon applications for grants under this section, the Board and the Secretary shall take into consideration the relative effectiveness of the proposed facilities in meeting demonstrated needs for additional or improved medical library services.

(d) The amount of any grant made under this section shall be that recommended by the Board or such lesser amount as the Secretary determines to be appropriate; except that in no event may such amount exceed 75 per centum of the necessary cost of the construction of such facility as determined by him.

(e) [11] Upon approval of any application for a grant under this section, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (e), and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement's facilities of the Department of the Treasury. The Secretary's reservation of any amount under this subsection may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(f) In determining the amount of any grant under this section, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this section, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

Recovery of Federal funds

(g) If, within twenty years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(2) the facility shall cease to be used for medical library purposes, unless the Secretary determines, in accordance with regulations prescribed by him

[10] Sec. 3(2) of P.L. 91–212 struck out former subsection (c) of sec. 393 and redesignated subsections (d) through (i) as subsections (c) through (h) respectively. Redesignated subsection (c) of sec. 393 amended by sec. 3(3) of P.L. 91–212.

[11] Redesignated sec. 393(e) amended by secs. 10(d)(2)(B) of P.L. 91–212.

after consultation with the Board, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

Appropriation

(h)[12] For the purposes of carrying out the provisions of this section, there are authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $13,000,000 for the fiscal year ending June 30, 1973.

GRANTS FOR TRAINING IN MEDICAL LIBRARY SCIENCES

42 U.S.C. 280b–4
Appropriation

SEC. 394.[13] (a) In order to enable the Secretary to carry out the purposes of section 390(b)(2), there are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1971, $1,750,000 for the fiscal year ending June 30, 1972, and $2,000,000 for the fiscal year ending June 30, 1973. Sums made available under this section shall be utilized by the Secretary in making grants—

(1) to individuals to enable them to accept traineeships and fellowships leading to postbaccalaureate academic degrees in the field of medical library science, in related fields pertaining to sciences related to health, or in the field of the communication of information;

(2) to individuals who are librarians or specialists in information on sciences relating to health, to enable them to undergo intensive training or retraining so as to attain greater competence in their occupations (including competence in the fields of automatic data processing and retrieval);

(3) to assist appropriate public and private nonprofit institutions in developing, expanding, and improving, training programs in library science and the field of communications of information pertaining to sciences relating to health; and

(4) to assist in the establishment of internship programs in established medical libraries meeting standards which the Secretary shall prescribe.

(b) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

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[12] Subsection (i) of sec. 393 amended by sec. 2(a) of P.L. 91–212 and then redesignated as subsection (h) by sec. 3(2) of P.L. 91–212.
[13] Subsection 394(a) amended by sec. 2(b) of P.L. 91–212.

ASSISTANCE FOR SPECIAL SCIENTIFIC PROJECTS, AND FOR RESEARCH AND DEVELOPMENT IN MEDICAL LIBRARY SCIENCE AND RELATED FIELDS

42 U.S.C. 280b–5
Fellowships, establishment
Appropriation

SEC. 395.[14] (a) In order to enable the Secretary to carry out the purposes of section 390(b)(3), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1973, such sums, not to exceed $500,000 for any fiscal year, as may be necessary. Sums made available under this subsection shall be utilized by the Secretary to make grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, or other practitioners, and scientists for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural, advancements in sciences related to health. In making such grants, the Secretary shall make appropriate arrangements whereby the facilities of the National Library of Medicine and the facilities of libraries of public and private nonprofit institutions of higher learning may be made available in connection with the projects for which such grants are made.

42 U.S.C. 280b–6
Appropriation

(b)[15] In order to enable the Secretary to carry out the purposes of section 390(b)(4), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1973, such sums, not to exceed $3,000,000 for any fiscal year, as may be necessary. Sums made available under this subsection shall be utilized by the Secretary in making grants to appropriate public or private nonprofit institutions and entering into contracts with appropriate persons, for purposes of carrying out projects of research, investigations, and demonstrations in the field of medical library science and related activities and for the development of new techniques, systems and equipment, for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

(c) Payment pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

GRANTS FOR ESTABLISHING, EXPANDING, AND IMPROVING THE BASIC RESOURCES OF MEDICAL LIBRARIES AND RELATED INSTRUMENTALITIES

42 U.S.C. 280b–7
Appropriation

SEC. 396.[16] (a) In order to enable the Secretary to carry out the purposes of section 390(b)(5), there are au-

[14] Sec. 395 amended by secs. 2, 4, and 10 of P.L. 91–212.
[15] Sec. 396 redesignated as sec. 395(b) by sec. 10(c)(2)(A) of P.L. 91–212 and further amended by secs. 10(c)(2), 2(d) and 5(a) of that Act.
[16] Sec. 397 redesignated as sec. 396 by sec. 10(c)(3) and further amended by secs. 2(e), and 6 of P.L. 91–212.

thorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $4,500,000 for the fiscal year ending June 30, 1973.

(b) Sums made available under this section shall be utilized by the Secretary for making grants of money, materials, or both, to public or private nonprofit medical libraries and related scientific communication instrumentalities for the purpose of establishing, expanding, and improving their basic medical library or related resources. The uses for which grants so made may be employed include, but are not limited to, the following: (A) acquisition of books, journals, photographs, motion picture and other films, and other similar materials, (B) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality, and (C) acquisition of duplication devices, facsimile equipment, film projectors, recording equipment and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it, and (D) introduction of new technologies in medical librarianship.

Uses

Determination of amount

(c)(1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Secretary on the basis of the scope of library or related services provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Secretary shall take into account the following factors—

Factors

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentality is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities.

(2)[17] In no case shall any grant under this section to

[17] Sec. 396(c)(2) amended by secs. 6(a)(2) and 12(a) of P.L. 91–212.

a medical library or related instrumentality for any fiscal year exceed $200,000; and grants to such medical libraries or related instrumentalities shall be in such amounts as the Secretary may by regulation prescribe with a view to assuring adequate continuing financial support for such libraries or instrumentalities from other sources during and after the period for which Federal assistance is provided.

Private financial support

The "annual operating expense" of a library or related instrumentality shall, for purposes of the preceding sentence, be an amount equal (if such annual operating expense is to be determined with respect to the first grant to be made to such library or instrumentality under this section) to the amount of the average of the annual operating expenses of such library or instrumentality over the three fiscal years preceding the year in which such grant is applied for; and if such library or related instrumentality has been operating for less than three years prior to applying for such grant, its "annual operating expense" shall be an amount determined by the Secretary pursuant to regulations prescribed by him. For the second or succeeding fiscal year in which a grant is made to a library or related instrumentality, the "annual operating expense" of such library or related instrumentality shall, for purposes of such sentence, be equal to its operating expense (exclusive of Federal financial assistance under this part) for the preceding fiscal year.

"Annual operating expense"

GRANTS FOR ESTABLISHMENT OF REGIONAL MEDICAL LIBRARIES

Sec. 397.[18] (a) In order to enable the Secretary to carry out the purposes of section 390(b)(6), there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1971, $3,250,000 for the fiscal year ending June 30, 1972, and $3,500,000 for the fiscal year ending June 30, 1973. Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, to make grants to existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

42 U.S.C. 280b–8
Appropriation

(b) The uses for which grants made under this section may be employed include, but are not limited to, the following—

Uses

(1) acquisition of books, journals, and other similar materials;

(2) cataloging, binding, and other procedures for processing library resource materials for use by those who are served by the library;

[18] Sec. 398 redesignated as sec. 397 by sec. 10(c)(3) and further amended by sec. 2(f) and sec. 7 of P.L. 91–212.

(3) acquisition of duplicating devices and other equipment to facilitate the use of the resources of the library by those who are served by it;

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of materials from the regional library to local libraries in the geographic area served by the regional library;

(5) planning for services and activities under this section; and

(6) construction, renovation, rehabilitation, or expansion of physical plant considered necessary by such library to carry out its proper functions as a regional library.

Conditions for grants

(c) (1) Grants under this section shall be made only to medical libraries which agree (A) to modify and increase their library resources, and to supplement the resources of cooperating libraries in the region, so as to be able to provide adequate supportive services to all libraries in the region as well as to individual users of library services, (B) to provide free loan services to qualified users, and make available photoduplicated or facsimile copies of biomedical materials which qualified requesters may retain.

Priority factors

(2) The Secretary, in awarding grants under this section, shall give priority to medical libraries having the greatest potential of fulfilling the needs for regional medical libraries. In determining the priority to be assigned to any medical library, he shall consider—

(A) the adequacy of the library (in terms of collections, personnel, equipment, and other facilities) as a basis for a regional medical library; and

(B) the size and nature of the population to be served in the region in which the library is located.

(d) Grants under this section for construction, renovation, rehabilitation, or expansion of physical plant shall be made in the same manner and subject to the same conditions as are provided for grants made under section 393, except that the eligibility for any such grant would be determined on the basis of the construction requirements of the library so as to be able to serve as a regional medical library. Grants under this section for basic resource materials to a library may not exceed 50 per centum of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or in case of the first year in which the library receives a grant under this section for basic resource materials, 50 per centum of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Secretary in accordance with regulations prescribed by him).

Limitation

(e) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement

and in such installment as the Secretary shall prescribe by regulations after consultation with the Board.

(f) The Secretary may also carry out the purposes of this section through contracts, and such contracts shall be subject to the same limitations as are provided in this section for grants.

FINANCIAL SUPPORT OF BIOMEDICAL SCIENTIFIC PUBLICATIONS

42 U.S.C. 280b–9
Appropriation

SEC. 398.[19] (a) In order to enable the Secretary to carry out the purposes of section 390(b)(7), there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1973, such sums, not to exceed $1,000,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, in making grants to, and entering into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a nonprofit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

(b) Grants under this section in support of any single periodical publication may not be made for more than three years, except in those cases in which the Secretary determines that further support is necessary to carry out the purposes of this section.

(c) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

CONTINUING AVAILABILITY OF APPROPRIATED FUNDS

42 U.S.C. 280b–10

SEC. 399.[20] Funds appropriated to carry out any of the purposes of this part for any fiscal year shall remain available for such purposes for the fiscal year immediately following the fiscal year for which they were appropriated.

RECORDS AND AUDIT

42 U.S.C. 280b–11

SEC. 399a.[20] (a) Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in

[19] Sec. 399 redesignated as sec. 398 by sec. 10(c)(3) and further amended by sec. 2(g) and sec. 8 of P.L. 91–212.

[20] Sec. 399a redesignated as sec. 399 by sec. 10(c)(3) and sec. 399b redesignated as 399a by sec. 10(c)(3) of P.L. 91–212.

connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to any grant received under the provisions of this part.

TRANSFERABILITY OF FUNDS

42 U.S.C. 280b–12

SEC. 399b. [21] (a) notwithstanding any other provision of this part, whenever there is appropriated any amount for any fiscal year (beginning with the fiscal year ending June 30, 1971) to carry out any particular program or activity authorized by this part, the Secretary shall have the authority to transfer sums from such amount, for the purpose of carrying out one or more of the other programs or activities authorized by this part; except that—

(1) the aggregate of the sums so transferred from any such amount shall not exceed 10 per centum thereof,

(2) the aggregate of the sums so transferred to carry out any such program or activity for any fiscal year shall not exceed 20 per centum of the amount appropriated to carry out such program or activity for such year, and

(3) sums may not be transferred for any fiscal year to carry out any such program or activity if such transfer would result in there being available (from appropriated funds plus the sums so transferred) to carry out such program or activity for such year amounts in excess of the amounts authorized to be appropriated for such year to carry out such program or activity.

(b) Any sums transferred under subsection (a) for any fiscal year for the purpose of carrying out any program or activity shall remain available for such purpose to the same extent as are funds which are specifically appropriated for such purpose for such year.

[21] New sec. 399b added by sec. 9 of P.L. 91–212.

# TITLE IV—NATIONAL RESEARCH INSTITUTES [1]

## PART A—NATIONAL CANCER INSTITUTE [2]

### TO BE A DIVISION IN NATIONAL INSTITUTES [3] OF HEALTH

SEC. 401. The National Cancer Institute shall be a division in the National Institutes [3] of Health. 42 U.S.C. 281

### CANCER RESEARCH, AND SO FORTH

SEC. 402. In carrying out the purposes of section 301 with respect to cancer, the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Council, shall— 42 U.S.C. 282

(a) conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(b) promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals;

(c) provide training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(d) provide fellowships in the Institute from funds appropriated or donated for such purpose;

(e) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

(f) cooperate with State health agencies in the prevention, control, and eradication of cancer;

(g) procure, use, and lend radium as provided in section 403.

### ADMINISTRATION

SEC. 403. (a) In carrying out the provisions of section 402 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and he is authorized— 42 U.S.C. 283

(1) [4] to purchase radium, from time to time with-

[1] The heading of Title IV was amended by sec. 2(a) of P.L. 692, 81st Congress.

[2] Sec. 3(b) of the National Heart Act (P.L. 655, 80th Congress) added the designation of secs. 401 to 406, inclusive, as pt. A.

[3] Subtitle and sec. 401 were amended by sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) by adding "s" to "Institute."

[4] Par. (1) of subsec. (a) and subsec. (b) were amended by sec. 6(c) of the National Heart Act (P.L. 655, 80th Congress), by changing the word "title" to "part."

out regard to section 3709 of the Revised Statutes, to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe;

(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to diagnosis and treatment of cancer to persons found by the Surgeon General to have proper technical qualifications, and designated by him for such training or instruction, and to fix and pay them a per diem allowance during such training or instruction of not to exceed $10.

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 501 of this Act, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Council. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) In carrying out the purposes of section 402 grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Council made pursuant to section 404.

FUNCTIONS OF COUNCIL

42 U.S.C. 284

SEC. 404. The council is authorized—

(a) to review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 402, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

(b) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(c) to review applications from any university,

hospital, laboratory, or other institution whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of cancer;

(d) to recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 of this Act; and

(e)[5] to make recommendations to the Surgeon General with respect to carrying out the provisions of this part.

APPROPRIATIONS

42 U.S.C. 285

SEC. 405. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

OTHER AUTHORITY

42 U.S.C. 286

SEC. 406.[6] This title shall not be construed as limiting (a) the functions or authority of the Surgeon General or the Public Health Service under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this Act; or (b) the expenditure of money therefor.

## PART B—NATIONAL HEART INSTITUTE[7]

ESTABLISHMENT OF INSTITUTE

42 U.S.C. 287

SEC. 411. There is hereby established in the Public Health Service a National Heart Institute (hereafter in this part referred to as the "Institute").

[5] Subsec. (e) was amended by sec. 6(c) of the National Heart Act (P.L. 655, 80th Congress), by changing the word "title" to "part".

[6] Sec. 406 was amended by sec. 4(a) of P.L. 692, 81st Congress.

[7] Pt. B was added by sec. 3(b) of the National Heart Act (P.L. 655, 80th Congress).

HEART DISEASE RESEARCH AND TRAINING

42 U.S.C. 287a

SEC. 412. In carrying out the purposes of section 301 with respect to heart diseases the Surgeon General, through the Institute and in cooperation with the National Advisory Heart Council (hereinafter in this part referred to as the "Council"), shall—

(a) conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart diseases;

(b) promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(c) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

(d) make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart diseases as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(e) establish an information center on research, prevention, diagnosis, and treatment of heart diseases, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to this part;

(f) secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart diseases;

(g) in accordance with regulations and from funds appropriated or donated for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute and

elsewhere in matters relating to the diagnosis, prevention, and treatment of heart diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions.

ADMINISTRATION

SEC. 413. (a) In carrying out the provisions of section 412 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and grants-in-aid for heart disease research and training projects shall be made only after review and recommendation of the Council made pursuant to section 414. 42 U.S.C. 287b

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart diseases, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

FUNCTIONS OF THE COUNCIL

SEC. 414. The Council is authorized to— 42 U.S.C. 287c

(a) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart diseases, and certify approval to the Surgeon General, for prosecution under section 412, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart diseases;

(b) review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart diseases, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart disease;

(c) review applications from any public or other nonprofit institution for grants-in-aid for training,

instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart diseases, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this act;

(d) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart diseases, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(e) recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 for carrying out the purposes of this part; and

(f) advise, consult with, and make recommendations to the Surgeon General with respect to carrying out the provisions of this part.

SEC. 415.[8] * * *

## PART C—NATIONAL INSTITUTE OF DENTAL RESEARCH[9]

### ESTABLISHMENT OF INSTITUTE

42 U.S.C. 288

SEC. 421. There is hereby established in the Public Health Service a National Institute of Dental Research (hereafter in this part referred to as the "Institute").

### DENTAL DISEASE RESEARCH AND TRAINING

42 U.S.C. 288a

SEC. 422. In carrying out the purposes of section 301 with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in this part referred to as the "Council"), shall—

(a) conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

(b) promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals;

(c) provide fellowships in the Institute from funds appropriated or donated for the purpose;

[8] Sec. 415 was repealed by sec. 4(c) of P.L. 692, 81st Congress.

[9] Pt. C was inserted to further amend Title IV, by sec. 3(b) of the National Dental Research Act (P.L. 755, 80th Congress).

(d) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(e) cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(f) provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendations of the Council, to public and other nonprofit institutions.

ADMINISTRATION

SEC. 423. (a) In carrying out the provisions of section 422 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 424. 42 U.S.C. 288b

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

FUNCTIONS OF THE COUNCIL

SEC. 424. The Council is authorized to— 42 U.S.C. 288c

(a) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the Surgeon General, for prosecution under section 422(a) hereof, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diag-

nosis and treatment of dental diseases and conditions;

(b) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;

(c) review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

(d) recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 for carrying out the purposes of this part;

(e) make recommendations to the Surgeon General with respect to carrying out the provisions of this part; and

(f) review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this Act.

SECS. 425 and 426.[10] * * *

## PART D—NATIONAL INSTITUTE ON ARTHRITIS, RHEUMATISM, AND METABOLIC DISEASES, NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE, AND OTHER INSTITUTES [11]

### ESTABLISHMENT OF INSTITUTES

42 U.S.C. 289a

SEC. 431.[12] (a) The Surgeon General shall establish in the Public Health Service an institute for research on

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[10] Secs. 425 and 426 were repealed by sec. 4(c) of P.L. 692, 81st Congress.

[11] Pt. D was added by sec. 2(b) of P.L. 692, 81st Congress.

[12] Sec. 7 of P.L. 90–639 changed the name of the National Institute of Neurological Diseases and Blindness to the National Institute of Neurological Diseases and Stroke. See Pt. F which authorizes establishment of the National Eye Institute. Sec. 431 amended by sec. 601(a)(2) of P.L. 91–515.

arthritis, rheumatism, and metabolic diseases, and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also establish a national advisory council or committee for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council or committee is concerned.

(b) The Surgeon General is authorized with the approval of the Secretary to establish in the Public Health Service one or more additional institutes to conduct and support scientific research and professional training relating to the cause, prevention, and methods of diagnosis and treatment of other particular diseases or groups of diseases (including poliomyelitis and leprosy) whenever the Surgeon General determines that such action is necessary to effectuate fully the purposes of section 301 with respect to such disease or diseases. Any institute established pursuant to this subsection may in like manner be abolished and its functions transferred elsewhere in the Public Health Service upon a finding by the Surgeon General that a separate institute is no longer required for such purposes. In lieu of the establishment pursuant to this subsection of an additional institute with respect to any disease or diseases, the Surgeon General may expand the functions of any institute established under subsection (a) of this section or under any other provision of this Act so as to include functions with respect to such disease or diseases and to terminate such expansion and transfer the functions given such institute elsewhere in the Service upon a finding by the Surgeon General that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Surgeon General may change the title thereof so as to reflect its new functions.

ESTABLISHMENT OF NATIONAL ADVISORY COUNCILS

SEC. 432. (a)[13] The Surgeon General is also authorized with the approval of the Secretary to establish additional national advisory councils or committees to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of any institute established under subsection (b) of section 431, or relating to the conduct and support of research and training in such disease or group of diseases (except a disease or group of diseases for which an institute is established under any provision of this title other than section 431(b)) as he may designate. Any such council, and each of the two councils or committees established under section 413(a), shall consist of the Surgeon General, who shall be chairman, the chief medical officer of

42 U.S.C. 289b

[13] Sec. 432(a) amended by sec. 601(a)(1) of P.L. 91–515.

the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members, and of twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary. The twelve appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed. Each appointed member of the council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b)[14] In lieu of appointment of an additional advisory council or committee upon the establishment pursuant to subsection (b) of section 431 of an additional institute or upon expansion pursuant to such subsection of the functions of an institute, the Surgeon General may expand the functions of an advisory council or committee established under section 431 (a) of any other provisions of this Act so as to include functions with respect to the particular disease or diseases to which the activities of the additional institute or the expanded activities of the existing institute are directed. In the case of any such expansion of an existing council or committee, the membership thereof representing persons outstanding in activities with which the council or committee is concerned may be changed or increased so as to include some persons outstanding in the new activities. Any new council or committee established under subsection (a) of this section or any expansion of an existing council or committee under this subsection may be terminated by the Surgeon General at, before, or after the termination of the new institute or expansion of the existing institute which occasioned such new council or committee or expansion of an existing council or committee. In the case of any such expansion of an existing council or committee, the Surgeon General may change the title therof so as to reflect its new functions.

[14] Sec. 432(b) amended by sec. 601(a)(2) of P.L. 91–515.

FUNCTIONS

SEC. 433.[15] (a) Where an institute has been established under this part, the Surgeon General shall carry out the purposes of section 301 with respect to the conduct and support of research relating to the disease or diseases to which the activities of the institute are directed, through such institute and in cooperation with the national advisory council or committee established or expanded by reason of the establishment of such institute. In addition, the Surgeon General is authorized to provide training and instruction and establish and maintain traineeships and fellowships, in such institute and elsewhere, in matters relating to the diagnosis, prevention, and treatment of such disease or diseases with such stipends and allowances (including travel and subsistence expenses for trainees and fellows as he may deem necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public and other nonprofit institutions. The provisions of this subsection shall also be applicable to any institute established by any other provision of this Act to the extent that such institute does not already have the authority conferred by this subsection. 42 U.S.C. 289c

(b) Upon the appointment of a national advisory council or committee for an institute established under this part or the expansion of an existing institute pursuant to this part, such council or committee shall assume the duties, functions, and powers of the National Advisory Health Council with respect to grants-in-aid for research and training projects relating to the disease or diseases to which the activities of the institute are directed.

## PART E[16]—INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND OF GENERAL MEDICAL SCIENCES

### ESTABLISHMENT OF INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

SEC. 441. The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the process of human growth and development, including prenatal development. 242 U.S.C. 281–289c

[15] Sec. 433 amended by sec. 601(a) of P.L. 91–515.
[16] Pt. E added by P.L. 87–838.

ESTABLISHMENT OF INSTITUTE OF GENERAL MEDICAL SCIENCES

SEC. 442.[17] The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training in the general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other institutes, or are outside the general area of responsibility of any other institute, established under or by this Act.

ESTABLISHMENT OF ADVISORY COUNCILS

SEC. 443.[18] (a) The Surgeon General is authorized, with the approval of the Secretary, to establish an advisory council or committee to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of the institute established under section 441. He may also, with such approval, establish such a council or committee with respect to the activities of the institute established under section 442.

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils or committees under section 432(a) shall be applicable to any council or committee established under this section, except that, in lieu of the requirement in such section that six of the members be outstanding in the study, diagnosis, or treatment of a disease or diseases, six of such members shall be selected from leading medical or scientific authorities who are outstanding in the field of research or training with respect to which the council or committee is being established, and except that the Surgeon General, with the approval of the Secretary, may include on any such council or committee established under this section such additional ex officio members as he deems necessary in the light of the functions of the institute with respect to which it is established.

(c) Upon appointment of any such council or committee, it shall assume all or such part as the Surgeon General may, with the approval of the Secretary, specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Surgeon General may specify (with such approval) of the duties, functions, and powers of any other advisory council or committee established under this Act relating to such projects.

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[17] Sec. 442 amended by sec. 602 of P.L. 91–515.
[18] Sec. 443 amended by sec. 601(a)(2) of P.L. 91–515 and sec. 443(b) further amended by sec. 601(a)(1) of the same P.L.

FUNCTIONS

SEC. 444. The Surgeon General shall, through an institute established under this part, carry out the purposes of sections 301 with respect to the conduct and support of research which is a function of such institute, except that the Surgeon General shall, with approval of the Secretary determine the areas in which and the extent to which he will carry out such purposes of section 301 through such institute or an institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter. The Surgeon General is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the institute established under section 441 and elsewhere in matters relating to diagnosis, prevention, and treatment of a disease or diseases or in other aspects of maternal health, child health, and human development, with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instructions and traineeships and for such fellowships through grants to public or other nonprofit institutions.

PRESERVATION OF EXISTING AUTHORITY

SEC. 445. Nothing in this part shall be construed as affecting the authority of the Secretary under section 2 of the Act of April 9, 1912 (42 U.S.C. 192), or title V of the Social Security Act (42 U.S.C., ch. 7, subch. V), or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this Act for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences.

## PART F [19]—NATIONAL EYE INSTITUTE

ESTABLISHMENT OF NATIONAL EYE INSTITUTE

SEC. 451. The Secretary is authorized to establish in the Public Health Service an institute for the conduct and support of research for new treatment and cures and training relating to blinding eye diseases and visual disorders, including research and training in the special health problems and requirements of the blind and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight. The Secretary is also authorized to plan for research and training, especially against the main causes of blindness and loss of visual function.

[19] Pt. F added by P.L. 90–489.

ESTABLISHMENT OF ADVISORY COUNCIL

SEC. 452.[20] (a) The Secretary is authorized to establish an advisory council or committee to advise, consult with, and make recommendations to him on matters relating to the activities of the National Eye Institute.

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to the council or committee established under this section, except that the Secretary may include on such council or committee established under this section such additional ex officio members as he deems necessary.

(c) Upon appointment of such council or committee, it shall assume all or such part as the Secretary may specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council or committee established under this Act relating to such projects.

FUNCTIONS

SEC. 453. The Secretary shall, through the National Eye Institute established under this part, carry out the purposes of section 301 with respect to the conduct and support of research with respect to blinding eye diseases and visual disorders associated with general health and well-being, including the special health problems and requirements of the blind and the mechanism of sight and visual function, except that the Secretary shall determine the areas in which and the extent to which he will carry out such purposes of section 301 through such Institute or an institute established by or under other provisions of his Act, or both of them, when both such institutes have functions with respect to the same subject matter. The Secretary is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the National Eye Institute and elsewhere in matters relating to diagnosis, prevention, and treatment of blinding eye diseases and visual disorders with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions.

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[20] Sec. 452 amended by sec. 601(a)(2) of P.L. 91–515.

## TITLE V—MISCELLANEOUS

### GIFTS

SEC. 501. (a) The Secretary is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress. 42 U.S.C. 219

(b) Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) The Secretary shall hold any real property or any tangible personal property accepted unconditionally pur-

suant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income therof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

(e)[1] * * *

42 U.S.C. 220

USE OF IMMIGRATION STATION HOSPITALS

SEC. 502. The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatement under section 322(a).

MONEY COLLECTED FOR CARE OF PATIENTS

42 U.S.C. 221

SEC. 503. Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid.

[1] Sec. 501(e) repealed by sec. 503(b) of P.L. 90–574.

CARE OF PUBLIC HEALTH SERVICE PATIENTS AT SAINT ELIZABETHS HOSPITAL

SEC. 504. Insane patients entitled to treatment by the Service shall be admitted, upon order of the Secretary, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service incident to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service.[2] 42 U.S.C. 222

SETTLEMENT OF CLAIMS

SEC. 505. The Secretary may consider, ascertain, adjust, and determine any claim which shall accrue, on account of damages occasioned by collisions or incident to the operation of vessels of the Service, and for which damages such vessels are found by him to be responsible. To be considered for settlement under this section, claims must be presented to the Secretary within one year of their accrual. The amount ascertained and determined to be due any claimant, not exceeding $3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made therefor by Congress, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed. Acceptance by any claimant of the amount determined to be due under this section shall be deemed to be in full and final settlement of such claim against the Government of the United States. 42 U.S.C. 223

TRANSPORTATION OF REMAINS OF OFFICERS

SEC. 506. Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for carrying out the provisions of this Act shall also be available for the payment of such expenses relating to the recovery, care, and disposition of the remains of personnel or their depend- 42 U.S.C. 224

[2] The last sentence of sec. 504 was added by sec. 6 of P.L. 781, 80th Congress.

ents as may be authorized under other provisions of law.[3]

GRANTS TO FEDERAL INSTITUTIONS

SEC. 507.[4] Appropriations to the Public Health Service available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, except that grants to such Federal institutions may be funded at 100 per centum of the costs.

TRANSFER OF FUNDS

42 U.S.C. 226

SEC. 508. For the purpose of any reorganization under section 202, the Secretary, with the approval of the Director of the Bureau of the Budget, is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions.

AVAILABILITY OF APPROPRIATIONS

42 U.S.C. 227

SEC. 509. Appropriations for carrying out the purposes of this Act shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing

[3] The last sentence of sec. 506 was added by sec. 14(b) of the Act of July 15, 1954, 68 Stat. 481.

[4] Effective July 1, 1968, a new sec. 507 was added by sec. 5 of P.L. 90–31. Sec. 507 further amended by sec. 3(c) (1) and (2) of P.L. 91–513.

their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health.[5]

UNAUTHORIZED WEARING OF UNIFORMS

SEC. 510.[6] Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service. 42 U.S.C. 228

ANNUAL REPORT

SEC. 511. The Surgeon General shall transmit to the Secretary, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.

MEMORIALS AND OTHER ACKNOWLEDGMENTS

SEC. 512.[7] The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health. 42 U.S.C. 229

EVALUATION OF PROGRAMS

SEC. 513.[8] Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act, the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress), or the Act of August 16, 1957 (Public Law 85–151), for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act or any of such other acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly.

[5] Sec. 509 was amended by sec. 7 of P.L. 781, 80th Congress. Note that the term "National Institute of Health" did not appear in this section on the effective date of sec. 6(b) of the National Heart Act (P.L. 655, 80th Congress) which directed that the term, wherever appearing in the Public Health Service Act, be changed to "National Institutes of Health."
[6] Sec. 510 amended by the Act of June 25, 1948, 62 Stat. 859.
[7] Sec. 512 added by Sec. 503(a) of P.L. 90–574.
[8] Sec. 513 added by Sec. 401(a) of P.L. 91–296.

# TITLE VI—ASSISTANCE FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES [1]

### DECLARATION OF PURPOSE

42 U.S.C. 291

SEC. 600. The purpose of this title is—

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

## PART A—GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

### AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION AND MODERNIZATION GRANTS [2]

42 U.S.C. 291a

SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

(a) [3] for the fiscal year ending June 30, 1965, and each of the next eight fiscal years—

(1) $85,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) $70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

[1] Title VI was completely revised by sec. 3(a) of P.L. 88–443 and further amended by P.L. 91–296.

[2] The heading of sec. 601 amended by sec. 102(a)(3) of P.L. 91–296.

[3] Sec. 601(a) amended by subsec. 402(a)(1) of P.L. 90–574 and further amended by secs 101 and 116(a) of P.L. 91–296.

(b)[4] for grants for the construction of public or other nonprofit hospitals and public health centers, $150,000,000 for the fiscal year ending June 30, 1965, $160,000,000 for the fiscal year ending June 30, 1966, $170,000,000 for the fiscal year ending June 30, 1967, $180,000,000 each for the next two fiscal years, $195,000,000 for the fiscal year ending June 30, 1970, $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, and $157,500,000 for the fiscal year ending June 30, 1973; and

(c)[4] for grants for modernization of the facilities referred to in paragraphs (a) and (b), $65,000,000 for the fiscal year ending June 30, 1971, $80,000,000 for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973.

STATE ALLOTMENTS

SEC. 602(a)(1)[5] Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 601(a), and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 601(b), as the product of— 42 U.S.C. 291b

(A) the population of such State, and

(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all of the States.

(2)[6] For each fiscal year, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated for such year under section 601(c), on the basis of the population, the financial need, and the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 601, of the respective States.

(b)(1) The allotment to any State under subsection (a) for any fiscal year which is less than—

[4] Sec. 601(b) amended by subsec. 402(a)(2) of P.L. 90–574 and further amended by secs. 101(a)(3) and 102(a)(1) of P.L. 91–296. Secs. 601(c) added by sec. 102(a)(2) of P.L. 91–296.

[5] Sec. 602(a)(1) amended by subsec. 402(b)(1) of P.L. 90–574 and further amended by sec. 103(a) of P.L. 91–296. Sec. 103(c) of P.L. 91–296 provides:

"(c) The Secretary of Health, Education, and Welfare shall conduct a study of the effects of the formula specified in section 602(a)(1) of the Public Health Service Act for allotment among the States of sums appropriated for construction of health facilities, and shall report to the Congress on May 15, 1972, the result of such study, together with recommendations for such changes, if any, in such formula as he may determine to be desirable, together with his justification for any changes so recommended."

[6] Sec. 3(b)(5) of P.L. 88–443, provided for the following exception in sec. 602(a)(2) of the PHS Act: "no application with respect to a project for modernization of any facility in any State may be approved by the Surgeon General, for purposes of receiving funds from an allotment under sec. 602(a)(2) of the Public Health Service Act, as amended by this Act, before July 1, 1965, or before such State has had a State plan approved by the Surgeon General as meeting the requirements of section 604(a)(4)(E) as well as the other requirements of section 604 of such act as so amended."

(A)[7] $50,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $100,000 for any other State, in the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities.

(B)[8] $100,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit outpatient facilities,

(C)[9, 10] $200,000 for the Virgin Islands American Samoa, the Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 601, or

(D)[9] $200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the modernization of facilities referred to in paragraphs (a) and (b) of section 601,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

(2)[10] An allotment of the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

(c) For the purposes of this part—

(1)[10] The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the

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[7] Sec. 602(b)(1)(A) amended by sec. 103(b)(1) and sec. 119(a)(1) and (e) of P.L. 91–296.

[8] Sec. 602(b(1)(B) amended by sec. 103(b)(2), further amended by sec. 116(b) and by sec. 119(a)(1) and (e) of P.L. 91–296.

[9] Sec. 602(b)(1)(C) amended and a new subparagraph (D) added by sec. 103(b)(3) and (4) respectively, of P.L. 91–296.

[10] Sec. 602(b)(1)(C) is further amended by sec. 119(a)(1) and (e) of P.L. 91–296, sec. 602(b)(2) amended by sec. 119(a)(2) and (e), and sec. 602(c)(1) amended by sec. 119(b) and (e) of P.L. 91–296.

same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 75 per centum.

(2) The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

(3) The population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce.

(4) The term "United States" means (but only for purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

(d) (1)[11] Any sum allotted to a State, other than the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to such State for such purposes for such next two fiscal years.

(2)[11] Any sum allotted to the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(e) (1)[12] Upon the request of any State that a specified portion of any allotment of such State under subsection (a) for any fiscal year be added to any other allotment or allotments of such State under such subsection for such year, the Secretary shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that the aggregate of the portions so transferred from an allotment for a fiscal year pursuant to this paragraph may not exceed the amount specified

42 U.S.C. 291b

[11] Sec. 602(d) (1) and (2) amended by sec. 119 (c) and (e) of P.L. 91–296, sec. 602(d) (1) further amended by sec. 122 of the same P.L.
[12] Sec. 601(e) amended by sec. 104 of P.L. 91–296.

with respect to such allotment in clause (A), (B), (C), or (D), as the case may be, of subsection (b) (1) which is applicable to such State.

(2) In addition to the transfer of portions of allotments under paragraph (1), upon the request of any State that a specified portion of any allotment of such State under subsection (a), other than an allotment for grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification to the Secretary by the State agency in such State to the effect that—

(A) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portions, or

(B) in the case of a request to transfer a portion of an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, use of such portion as requested by such State agency will better carry out the purposes of this title,

the Secretary shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(3) In addition to the transfer of portions of allotments under paragraph (1) or (2), upon the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 601, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(4) After adjustment of allotments of any State, as provided in paragraph (1), (2), or (3) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

(f) In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of

another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this title, such portion of such State's allotment shall be added to the corresponding allotment of the other State, to be used for the purpose referred to above.

GENERAL REGULATIONS

SEC. 603. The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe— 42 U.S.C. 291c

(a) the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1)[13] in the case of projects for the construction of hospitals, to facilities serving areas with relatively small financial resources and, at the option of the State, rural communities;

(2)[13] in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas;

(4)[13] in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5)[13] to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(6)[13] to facilities which will provide training in health or allied health professions; and

(7)[13] to facilities which will provide to a significant extent, for the treatment of alcoholism;

[13] Sec. 603(a)(1) and (2) amended, and new clauses (4)–(7) added by sec. 110(1) through (3) of P.L. 91–296.

(b) general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

(c) criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

(d) criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

(e) that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

STATE PLANS

42 U.S.C. 291d

SEC. 604. (a) Any State desiring to participate in this part may submit a State plan. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this part;

(3)[14] provide for the designation of a State advisory council which shall include (A) representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and representatives particularly concerned with education or training of health professions personnel, and (B) an equal number of representatives of consumers familiar with the need

[14] Sec. 604(a)(3) amended by sec. 115 of P.L. 91–296.

for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 603 and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C)[15] the outpatient facilities needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such facilities throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State; and

(E) effective January 1, 1966, the extent to which existing facilities referred to in section 601 (a) or (b) in the State are in need of modernization;

(5)[15] set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) and regulations prescribed under section 603 and providing for construction or modernization of the hospital or long-term care facilities, public health centers, outpatient facilities and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4);

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 603, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the

[15] Sec. 604(a)(4)(C) and sec. 604(a)(5) amended by sec. 116(b) and (c) respectively, of P.L. 91–296.

discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8)[16] provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11)[17] provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10);

(12)[17] provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary; and

(13)[17] Effective July 1, 1971, provide that before any project for construction or modernization of any general hospital is approved by the State agency there will be reasonable assurance of adequate provision for extended care services (as determined in accordance with regulations) to patients of such hospital when such services are medically appropriate for them, with such services being provided in facilities which (A) are structurally part of, physically connected with, or in immediate proximity to, such hospital, and (B) either (i) are under the supervision of the professional staff of such hospital or (ii) have organized medical staffs and have in effect transfer agreements with such hospital; except that the Secretary may, at the request of the State agency, waive compliance with clause (A) or (B), or both such clauses, as the case may be, in the case of any project if the State agency

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[16] Sec. 208(a)(3) of P.L. 91–648 transfers to the U.S. Civil Service Commission all functions, powers, and duties of the Secretary under sec. 604(a)(8) insofar as they relate to the prescription of personnel standards on a merit basis.

[17] Sec. 604(a) (11) and (12) amended and a new (13) added by sec. 123 of P.L. 91–296.

has determined that compliance with such clause or clauses in such case would be inadvisable.

(b) The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a), the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.

APPROVAL OF PROJECTS FOR CONSTRUCTION OR MODERNIZATION

SEC. 605.[18] (a) For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth— 42 U.S.C. 291e

(1) a description of the site for such project;

(2) plans and specifications therefor, in accordance with regulations prescribed under section 603;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

[18] Sec. 3(b)(1) of P.L. 88–443, provided for the following exception in sec. 605 of the P.H.S. Act: "all applications approved by the Surgeon General under title VI of the Public Health Service Act prior to such date [Aug. 18, 1964] and allotments of sums appropriated prior to such date, shall be governed by the provisions of such title VI in effect prior to such date."

(6) a certification by the State agency of the Federal share for the project.

(b)[19] The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appropriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 603; (3) that the application is in conformity with the State plan approved under section 604 and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 603(e), and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency, opportunity has been provided, prior to such approval and recommendation, for consideration of the project by the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) covering the area in which such project is to be located or, if there is no such agency or organization, by the State agency administering or supervising the administration of the State plan approved under section 314(a), and the application is for a project which is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 603(a). Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health, Education, and Welfare.

(c) No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

(d) Amendment of any approved application shall be subject to approval in the same manner as an original application.

(e)[20] Notwithstanding any other provision of this title, no application for an outpatient facility shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 645) or which provides reasonable assurance that the services of a general hospital will be available to patients of such facility who are in need of hospital care.

[19] Sec. 605(b) amended by sec. 111(a) of P.L. 91–296.
[20] Sec. 605(e) amended by sec. 116(e) of Public Law 91–296.

PAYMENTS FOR CONSTRUCTION OR MODERNIZATION

42 U.S.C. 291f

SEC. 606. (a) Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 607, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) In case an amendment to an approved application is approved as provided in section 605 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) (1) [21] At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 4 per centum of the total of the allotments of such State for a year, or $100,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

(2) [21] Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1970.

[21] Sec. 606(c) (1) and (2) amended by sec. 112 (1) and (2), respectively, of Public Law 91–296.

WITHHOLDING OF PAYMENTS

42 U.S.C. 291g

SEC. 607. Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 604(a)(1), finds—

(a) that the State agency is not complying substantially with the provisions required by section 604 to be included in its State plan; or

(b) that any assurance required to be given in an application filed under section 605 is not being or cannot be carried out; or

(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 605; or

(d) that adequate State funds are not being provided annually for the direct administration of the State plan, the Surgeon General may forthwith notify the State agency that—

(e) no further payments will be made to the State under this part, or

(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 601, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section, as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

JUDICIAL REVIEW

42 U.S.C. 291h

SEC. 608. (a) If the Surgeon General refuses to approve any application for a project submitted under section 605 or section 610, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 607 such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall

thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

(b) The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action.

RECOVERY

SEC. 609. If any facility with respect to which funds have been paid under section 606 shall, at any time within twenty years after the completion of construction— 42 U.S.C. 291i

(a) be sold or transferred to any person, agency, organization (1) which is not qualified to file an application under section 605, or (2) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

(b) [22] cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of

[22] Sec. 609(b) amended by sec. 116(d) of P.L. 91–296.

the construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment.

LOANS FOR CONSTRUCTION OR MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

42 U.S.C. 291j

SEC. 610. (a) In order further to assist the States in carrying out the purposes of this title, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

(b) Except as provided in this section, an application for a loan with respect to any project under this part shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

(c)(1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be agreed upon by the applicant and the Surgeon General.

(2) The Surgeon General may enter into agreements modifying any of the terms and conditions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 609 occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

(d) Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts.

## Part B [23]—Loan Guarantees and Loans for Modernization and Construction of Hospitals and Other Medical Facilities

### authorization of loan guarantees and loans

42 U.S.C. 291j–1

Sec. 621. (a) (1) In order to assist nonprofit private agencies to carry out needed projects for the modernization or construction of nonprofit private hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1973, may, in accordance with the provisions of this part, guarantee to non-Federal lenders making loans to such agencies for such projects, payment of principal of and interest on loans, made by such lenders, which are approved under this part.

(2) In order to assist public agencies to carry out needed projects for the modernization or construction of public health centers, and public hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1973, may, in accordance with the provisions of this part, make loans to such agencies which shall be sold and guaranteed in accordance with section 627.

(b) (1) No loan guarantee under this part with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant or loan under part A with respect to such project, exceeds 90 per centum of the cost of such project.

(2) No loan to a public agency under this part shall be made in an amount which, when added to the amount of any grant or loan under part A with respect to such project, exceeds 90 per centum of the cost of such project.

(c) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the

[23] Part B added by sec. 201 of P.L. 91–296.

Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

ALLOCATION AMONG THE STATES

42 U.S.C. 291j–2

SEC. 622. (a) For each fiscal year, the total amount of principal of loans to nonprofit private agencies which may be guaranteed or loans to public agencies which may be directly made under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of each State's relative population, financial need, need for construction of the facilities referred to in section 621(a), and need for modernization of such facilities.

(b) Any amount alloted under subsection (a) to a State for a fiscal year ending before July 1, 1973, and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for each of such next two fiscal years; except that, with the consent of any such State, any such amount remaining unobligated at the end of the first of such next fiscal year may be reallotted (on such basis as the Secretary deems equitable and consistent with the purposes of this title) to other States which have need therefor. Any amounts so reallotted to a State shall be available for the purposes for which made until the close of the second such next two fiscal years and shall be in addition to the amount allotted and available to such State for the same period.

(c) Any amount allotted or reallotted to a State under this section for a fiscal year shall not, until the expiration of the period during which it is available for obligation, be considered as available for allotment for a subsequent fiscal year.

(d) The allotments of any State under subsection (a) for the fiscal year ending June 30, 1971, and the succeeding fiscal year shall also be available to guarantee loans with respect to any project, for modernization or construction of a nonprofit private hospital or other health facility referred to in section 621(a)(1), if the modernization or construction of such facility was not commenced earlier than January 1, 1968, and if the State certifies and the Secretary finds that without such guaranteed loan such facility could not be completed and begin to operate or could not continue to operate, but with such guaranteed loan would be able to do so: *Provided*, That this subsection shall not apply to more than two projects in any one State.

APPLICATIONS AND CONDITIONS

SEC. 623. (a) For each project for which a guarantee of a loan to a nonprofit private agency or a direct loan to a public agency is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 604, an application by such private nonprofit agency or by such public agency. If two or more private nonprofit agencies, or two or more public agencies, join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by the third sentence of section 605(a) (other than clause (6) thereof) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan for which a guarantee is sought under this part, or the amount of the direct loan sought under this part, as the case may be.

42 U.S.C. 291j–3

78 Stat. 452.
42 U.S.C. 291d.

42 U.S.C. 291e.

(b) The Secretary may approve such application only if—

(1) there remains sufficient balance in the allotment determined for such State pursuant to section 622 to cover the amount of the loan for which a guarantee is sought, or the amount of the direct loan sought (as the case may be), in such application,

(2) he makes each of the findings which are required by clauses (1) through (4) of section 605(b) for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 603(a), such finding shall be made without regard to the provisions of clauses (1) and (3) of such section),

42 U.S.C. 291c.

(3) he finds that there is compliance with section 605(e),

(4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

(5) he also determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per

centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

(e)(1) In the case of any loan to a nonprofit private agency, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any guarantee of such loan under this part, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans to nonprofit private agencies under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved, and, to the extent permitted by subsection (f), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(f) Any guarantee of a loan to a nonprofit private agency made by the Secretary pursuant to this part shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

PAYMENT OF INTEREST ON GUARANTEED LOAN

42 U.S.C. 291j–4

SEC. 624. (a) Subject to the provisions of subsection (b), in the case of a guarantee of any loan to a nonprofit private agency under this part with respect to a hospital or other medical facility, the Secretary shall pay, to the holder of such loan and for and on behalf of such hospital or other medical facility amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan, to a nonprofit private agency, which is guaranteed under this part shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(b) Contracts to make the payments provided for in this section shall not carry an aggregate amount greater than such amount as may be provided in appropriations Acts.

LIMITATION ON AMOUNT OF LOANS GUARANTEED OR DIRECTLY MADE

SEC. 625. The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this part may not exceed the lesser of— 42 U.S.C. 291j–5

(1) such limitations as may be specified in appropriations Acts, or

(2) in the case of loans covered by allotments for for the fiscal year ending June 30, 1971, $500,000,000; for the fiscal year ending June 30, 1972, $1,000,000,000; and for the fiscal year ending June 30, 1973, $1,500,000,000.

LOAN GUARANTEE AND LOAN FUND

SEC. 626. (a)(1) There is hereby established in the Treasury a loan guarantee and loan fund (hereinafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, (i) to enable him to discharge his responsibilities under guarantees issued by him under this part, (ii) for payment of interest on the loans to nonprofit agencies which are guaranteed, (iii) for direct loans to public agencies which are sold and guaranteed, (iv) for payment of interest with respect to such loans, and (v) for repurchase by him of direct loans to public agencies which have been sold and guaranteed. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital required for the fund. To the extent authorized from time to time in appropriation Acts, there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets. 42 U.S.C. 291j–6 84 Stat. 348

(2) Of the moneys in the fund, there shall be available to the Secretary for the purpose of making of direct loans to public agencies only such sums as shall have been appropriated for such purpose pursuant to section 627 or sums received by the Secretary from the sale of such loans (in accordance with such section) and authorized in appropriations Acts to be used for such purpose.

(b) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this part—

(i) to make payments of interest on loans to nonprofit private agencies which he has guaranteed under this part;

(ii) to otherwise comply with guarantees under this part of loans to nonprofit private agencies;

(iii) to make payments of interest subsidies with respect to loans to public agencies which he has made, sold, and guaranteed under this part;

(iv) in the event of default by public agencies to make payments of principal and interest on loans which the Secretary has made, sold, and guaranteed, under this part, to make such payments to the purchaser of such loan;

(v) to repurchase loans to public agencies which have been sold and guaranteed under this part,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

40 Stat. 288
31 U.S.C. 744

PROVISIONS APPLICABLE TO LOANS TO PUBLIC FACILITIES

42 U.S.C. 291j–7

SEC. 627. (a) (1) Any loan made by the Secretary to a public agency under this part for the modernization or construction of a public hospital or other health facility shall require such public agency to pay interest thereon at a rate comparable to the current rate of interest prevailing with respect to loans, to nonprofit private agencies, which are guaranteed under this part, for the modernization or construction of similar facilities in the same or similar areas, minus 3 per centum per annum.

(2) (A) No loan to a public agency shall be made under this part unless—

(i) the Secretary is reasonably satisfied that such agency will be able to make payments of principal and interest thereon when due, and

(ii) such agency provides the Secretary with reasonable assurances that there will be available to such agency such additional funds as may be necessary to complete the project with respect to which such loan is requested.

(B) Any loan to a public agency shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provision for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) In making loans to public agencies under this part, the Secretary shall give due regard to achieving an equitable geographical distribution of such loans.

(b)(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans referred to in subsection (a)(1) either on the private market or to the Federal National Mortgage Association in accordance with section 302 of the Federal National Mortgage Association Charter Act.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loan as of the time of sale. 68 Stat. 613 12 U.S.C. 1717

(c)(1) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees —

(A) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(B) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary, after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(2) Any such agreement—

(A) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the public agency to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such agency under such loan;

(B) may provide for the repurchase by the Secre-

tary of any such loan on such terms and conditions as may be specified in the agreement;

(C) shall provide that, in the event of any default by the public agency to which such loan was made in payment of principal and interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(D) shall provide that, in the event such loan is closed out as provided in subparagraph (C), or in the event of any other loss incurred by the Secretary by reason of the failure of such public agency to make payments of principal and interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such public agency.

(d) The Secretary may, for good cause, waive any right of recovery which he has against a public agency by reason of the failure of such agency to make payments of principal and interest on a loan made to such agency under this part.

(e) After any loan to a public agency under this part has been sold and guaranteed, interest paid on such loan and any interest subsidy paid by the Secretary with respect to such loan which is received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

26 U.S.C. 1–1388.

(f) Amounts received by the Secretary as proceeds from the sale of loans under this section shall be deposited in the loan fund established by section 626, and shall be available to the Secretary for the making of further loans under this part in accordance with the provisions of subsection (a)(2) of such section.

68A Stat. 3

(g) There is authorized to be appropriated to the Secretary, for deposit in the loan fund established by section 626, $30,000,000 to provide initial capital for the making of direct loans by the Secretary to public agencies for the modernization or construction of facilities referred to in subsection (a)(1).

## Part C [24]—Construction or Modernization of Emergency Rooms

### AUTHORIZATION

42 U.S.C. 291j–8

Sec. 631. In order to assist in the provision of adequate emergency room service in various communities of the Nation for treatment of accident victims and handling

[24] Part C added by sec. 301 of P.L. 91–296.

of other medical emergencies through special project grants for the construction or modernization of emergency rooms of general hospitals, there are authorized to be appropriated $20,000,000 each for the fiscal year ending June 30, 1971, and the next two fiscal years.

ELIGIBILITY FOR GRANTS

SEC. 632. Funds appropriated pursuant to section 631 shall be available for grants by the Secretary for not to exceed 50 per centum of the cost of construction or modernization of emergency rooms of public or nonprofit general hospitals, including provision or replacement of medical transportation facilities. Such grants shall be made by the Secretary only after consultation with the State agency designated in accordance with section 604 (a) (1) of the Public Health Service Act. In order to be eligible for a grant under this part, the project, and the applicant therefor, must meet such criteria as may be prescribed by regulations. Such regulations shall be so designed as to provide aid only with respect to projects for which adequate assistance is not readily available from other Federal, State, local, or other sources, and to assist in providing modern, efficient, and effective emergency room service needed to care for victims of highway, industrial, agricultural, or other accidents and to handle other medical emergencies, and to assist in providing such service in geographical areas which have special need therefor.

42 U.S.C. 291j–9

78 Stat. 452
42 U.S.C. 291d

PAYMENTS

SEC. 633. Grants under this part shall be paid in advance or by way of reimbursement, in such installments and on such conditions, as in the judgment of the Secretary will best carry out the purposes of this part.

42 U.S.C. 291j–10

## PART D [25]—GENERAL

FEDERAL HOSPITAL COUNCIL AND ADVISORY COMMITTEES

SEC. 641.[25] (a) In administering this title, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health, Education, and Welfare. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to repre-

42 U.S.C. 291k

[25] Sec. 201 of P.L. 91–296 redesignated part B as part D, and redesignated secs. 621 through 625, and all references thereto, as secs. 641 through 645, respectively.

sent the consumers of services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

(b) Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after enactment of this section) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(c) The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(d) The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

(e) [26] * * *

CONFERENCE OF STATE AGENCIES

42 U.S.C. 2911

SEC. 642. Whenever in his opinion the purposes of this title would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 604, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request.

STATE CONTROL OF OPERATIONS

42 U.S.C. 291m

SEC. 643. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

LOANS FOR CERTAIN HOSPITAL EXPERIMENTATION PROJECTS

42 U.S.C. 291m–1

SEC. 643A.[27] (a) In order to alleviate hardship on any recipient of a grant under section 636 of this title (as in effect immediately before the enactment of the Hos-

[26] Redesignated subsec. 641(e) deleted by subsec. 601(b) of P.L. 91–515.
[27] Former sec. 623A, added by sec. 11 of P.L. 90–174, redesignated as sec. 643A by sec. 201 of P.L. 91–296.

pital and Medical Facilities Amendments of 1964) for a project for the construction of an experimental or demonstration facility having as its specific purpose the application of novel means for the reduction of hospital costs with respect to which there has been a substantial increase in the cost of such construction (over the estimated cost of such project on the basis of which such grant was made) through no fault of such recipient, the Secretary is authorized to make a loan to such recipient not exceeding 66⅔ per centum of such increased costs, as determined by the Secretary, if the Secretary determines that such recipient is unable to obtain such an amount for such purpose from other public or private sources.

(b) Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Each such loan shall bear interest at the rate of 2½ per centum per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) There are hereby authorized to be appropriated $3,500,000 to carry out the provisions of this section.

STUDIES AND DEMONSTRATIONS RELATING TO COORDINATED USE OF HOSPITAL FACILITIES

SEC. 644.[28] * * *

DEFINITIONS

42 U.S.C. 291n
42 U.S.C. 291o

SEC. 645. For the purposes of this title—

(a) [29] The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(b) [30] (1) The term "Federal share" with respect to any project means the proportion of the cost of such project to be paid by the Federal Government under this title.

(2) With respect to any project in any State for which a grant is made from an allotment from an appropriation under section 601, the Federal share shall be the amount determined by the State agency designated in accordance with section 604, but not more than 66⅔ per centum or the State's allotment percentage, whichever is the lower, except that, if the State's allotment percentage is lower than 50 per centum, such allotment percentage shall be deemed to be 50 per centum for purposes of this paragraph.

78 Stat. 452
42 U.S.C. 291d

[28] Sec. 644, formerly sec. 624, was repealed by sec. 3(b) of P.L. 90–174.
[29] Redesignated sec. 645(a) amended by sec. 119 (d) and (e) of P.L. 91–296.
[30] Redesignated sec. 645(b) amended by sec. 113 of P.L. 91–296.

(3) Prior to the approval of the first project in a State during any fiscal year the State agency designated in accordance with section 604 shall give the Secretary written notification of the maximum Federal share established pursuant to paragraph (2) for projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for projects in such State approved during such fiscal year shall not be changed after such approval.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Federal share shall, at the option of the State agency, be equal to the per centum provided under such paragraphs plus an incentive per centum (which when combined with the per centum provided under such paragraphs shall not exceed 90 per centum) specified by the State agency in the case of (A) projects that will provide services primarily for persons in an area determined by the Secretary to be a rural or urban poverty area, and (B) projects that offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of free-standing outpatient facilities.

(c) [31] The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(d) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(e) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) [32] The term "outpatient facility" means a facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients),

(1) which is operated in connection with a hospital, or

[31] Redesignated sec. 645(c) amended by sec. 114(a) of P.L. 91–296.
[32] Redesignated sec. 645(f) amended by sec. 116(f) (1) and (4) of P.L. 91–296, and sec. 645(f) further amended by sec. 116(f) (2) and (3) of the same P.L.

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(3) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(g) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(1) medical evaluation and services, and

(2) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which—

(3) the major portion of the required evaluation and services is furnished within the facility; and

(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(h)[33] The term "facility for long-term care" means a facility (including an extended care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(i)[34] The term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities) and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

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[33] Redesignated sec. 645(h) amended by sec. 117 of P.L. 91–296.
[34] Redesignated sec. 645(i) amended by sec. 118 of P.L. 91–296.

(j) The term "cost" as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 602(a)(2), does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

(k) The term "modernization" includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(l) The term "title," when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years' undisturbed use and possession for the purposes of construction and operation of the project.

FINANCIAL STATEMENTS

SEC. 646.[35] In the case of any facility for which a grant, loan, or loan guarantee has been made under this title, the applicant for such grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

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[35] Sec. 646 added by sec. 121 of P.L. 91–296.

# TITLE VII—HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL[1]

## PART A—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES

### DECLARATION OF POLICY

SEC. 701. (a) The Congress hereby finds and declares that (1) the Nation's economy, welfare, and security are adversely affected by many crippling and killing diseases the prevention and control of which require a substantial increase, in all areas of the Nation, of research activities in the sciences related to health, and (2) funds for the construction of new and improved non-Federal facilities to house such activities are inadequate. 42 U.S.C. 292

(b) It is therefore the purpose of this part to assist in the construction of facilities for the conduct of research in the sciences related to health by providing grants-in-aid on a matching basis to public and nonprofit institutions for such purpose.

### DEFINITIONS

SEC. 702. As used in this part— 42 U.S.C. 292a

(1) the term "Council" means the National Advisory Council on Health Research Facilities established by section 703;

(2) the terms "construction" and "cost of construction" include (A) the construction of new buildings, and the expansion, remodeling and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered;

(3) the term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto.

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[1] Sec. 2(a) of P.L. 88–129 amended the heading of title VII; added the designation of sec. 701 to 711, inclusive, as a new pt. A; and changed the words "this title" wherever they appeared in the new pt. A to read "this part."

NATIONAL ADVISORY COUNCIL ON HEALTH RESEARCH FACILITIES

42 U.S.C. 292b

SEC. 703. (a) There is hereby established in the Public Health Service a National Advisory Council on Health Research Facilities, consisting of the Surgeon General of the Public Health Service, who shall be Chairman, and an official of the National Science Foundation designated by the National Science Board, who shall be ex officio members, and twelve members appointed by the Secretary without regard to the civil-service laws. Four of the appointed members shall be selected from the general public and eight shall be selected from among leading medical, dental, or scientific authorities who are skilled in the sciences related to health. In selecting persons for appointment to the Council, consideration shall be given to such factors, among others, as (1) experience in the planning, constructing, financing, and administration of institutions engaged in the conduct of research in the sciences related to health, and (2) familiarity with the need for research facilities in all areas of the Nation.

(b) The Council shall—

(1) advise and assist the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part; and

(2) consider all applications for grants under this part and make to the Surgeon General such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

(c)[2] The Surgeon General is authorized to use the services of any member or members of the Council, and where appropriate, any member or members of the Federal Hospital Council, the National Advisory Health Council or the other national advisory councils or committees referred to in section 217 of this Act, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Surgeon General shall, in addition, make appropriate provision for consultation between and coordination of the work of the Council, the Federal Hospital Council, the National Advisory Health Council and such other national advisory councils or committees with respect to matters bearing on the purposes and administration of this part.

(d)[3] * * *

[2] Sec. 703(c) amended by sec. 601(a) of P.L. 91–515.
[3] Sec. 703(d) deleted by sec. 601(b)(2) of P.L. 91–515.

AUTHORIZATION OF APPROPRIATIONS

SEC. 704.[4] There is hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the nine succeeding fiscal years, not to exceed $50,000,000, for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, an aggregate of not to exceed $280,000,000, $20,000,000 for the fiscal year ending June 30, 1970, and $30,000,000 for the next fiscal year, for making grants-in-aid for the construction of facilities for research, or research and related purposes, in the sciences related to health; and any sums appropriated pursuant to this section shall remain available until expended. 42 U.S.C. 292c

APPROVAL OF APPLICATIONS

SEC. 705. (a)[4] Applications for grants under this part shall be made not later than June 30, 1970. 42 U.S.C. 292d

(b) To be eligible to apply for a grant under this part, the applicant must be a public or nonprofit institution, determined by the Surgeon General, after consultation with the Council, to be competent to engage in the type of research for which the facility is to be constructed.

(c)[5] A grant under this part may be made only if the application therefor is recommended for approval by the Council and is approved by the Surgeon General upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b);

(2) the application contains or is supported by reasonable assurances that (A) for not less than ten years after completion of construction, the facility will be used for the purposes of research, or research and related purposes, in the sciences related to health for which it is to be constructed, (B) subject to subsection (d), sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the research, or research and related purposes, for which it is being constructed;

(3) the proposed construction will expand the applicant's capacity for research in the sciences related to health, or is necessary to improve or maintain the quality of the applicant's research in the sciences related to health; and,

(4) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid

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[4] Secs. 704 and 705(a) amended by sec. 401 of P.L. 90–490.
[5] Sec. 705(c) (2) and (3) amended, and (4) added by sec. 3 of P.L. 88–129.

wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(d) Within such aggregate monetary limit as the Surgeon General may prescribe, after consultation with the Council, applications which (solely by reason of the inability of the applicants to give the assurance required by clause (B) of subsection (c)(2)) fail to meet the requirements for approval set forth in subsection (c) may be approved upon condition that the applicants give the assurance required by such clause (B) within a reasonable time and upon such other reasonable terms and conditions as he may determine after consultation with the Council.

(e)[6] In acting upon applications for grants, the Council and the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in expanding capacity for research, or research and related purposes, in the sciences related to health, in improving the quality of such research or related purposes and in promoting an equitable geographical distribution of such research (giving due consideration to population, available scientific research workers, and available research resources in various areas of the Nation).

AMOUNT OF GRANT; PAYMENTS

42 U.S.C. 292e

SEC. 706.[7] (a) (1) The amount of any grant made under this part shall be that recommended by the Council or such lesser amounts as the Surgeon General determines to be appropriate; but such amount may not, except as provided in paragraph (2), exceed 50 per centum of the necessary cost of the construction of such facility as determined by him, in the case of a facility which the Surgeon General determines is to be used for research, or research and purposes related thereto (including research training), in the sciences related to health or, in the case of any other multi-purpose facility, 50 per centum of the part of the necessary cost of construction which the Surgeon General determines to be proportionate to the contemplated use of the facility for research or research and related purposes, in the sciences related to health.

(2) The maximum amount of any grant shall be 66⅔ per centum instead of the maximum under paragraph

[6] Sec. 705(e) amended by sec. 8 of P.L. 87–395.

[7] Sec. 706 amended by sec. 402 of P.L. 90–490 by addition of paragraph (2), effective for projects for which grants are made from appropriations for fiscal years ending after June 30, 1969.

(1) in the case of any class or classes of projects which the Secretary determines have such special national or regional significance as to warrant a larger grant than is permitted under paragraph (1); but not more than 25 per centum of the funds appropriated pursuant to section 704 for any fiscal year shall be available for grants in excess of 50 per centum with respect to such class or classes of projects.

(b) Upon approval of any application for a grant under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a), and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement facilities of the Department of the Treasury. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

RECAPTURE OF PAYMENTS

SEC. 707. If, within ten years after completion of any construction for which funds have been paid under this part— 42 U.S.C. 292f

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(b)[8] the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

[8] Secs. 707(b) and 708 amended by sec. 8 of P.L. 87–395.

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

42 U.S.C. 292g

SEC. 708.[8] Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related purposes conducted by, and the personnel or administration of, any institution.

REGULATIONS

42 U.S.C. 292h

SEC. 709. (a) Within six months after the enactment of this part, the Surgeon General, after consultation with the Council and with the approval of the Secretary, shall prescribe general regulations covering the eligibility of institutions, and the terms and conditions for approving applications.

(b) The Surgeon General is authorized to make, with the approval of the Secretary, such administrative and other regulations as he finds necessary to carry out the provisions of this part.

REPORTS

42 U.S.C. 292i

SEC. 710. On or before January 15, 1957, and annually thereafter, the Surgeon General, in consultation with the Council, shall prepare an annual report and submit it to the President for transmission to the Congress, summarizing the activities under this part and making such recommendations as he may deem appropriate. The report to be submitted on or before January 15, 1958, shall include an appraisal of the current program under this part in the light of its adequacy to meet the long-term needs for funds for the construction of non-Federal facilities for research in the sciences related to health. Such reports and appraisals shall include minority views and recommendations, if any, of members of the Council.

TECHNICAL ASSISTANCE

42 U.S.C. 292j

SEC. 711.[9] The Surgeon General is authorized to provide assistance to applicants under this part, and other public or nonprofit institutions engaging or competent to engage in research, or research and related purposes, in the sciences related to health, in designing and planning the construction of facilities for the conduct of such research or research and related purposes.

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[9] Sec. 711 added by sec. 3 of P.L. 88–129.

## Part B—Grants for Construction of Teaching Facilities for Medical, Dental, and Other Health Personnel [10]

### AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 293

Sec. 720.[11] There are hereby authorized to be appropriated $480,000,000 for the three fiscal years in the period beginning July 1, 1966, and ending June 30, 1969, of which not more than $160,000,000 may be available for grants before July 1, 1967, and not more than $320,000,000 may be available for grants before July 1, 1968, for—

(1) grants to assist in the construction of new teaching facilities for the training of physicians, pharmacists, optometrists, podiatrists, veterinarians, or professional public health personnel;

(2) grants to assist in the construction of new teaching facilities for the training of dentists; and

(3) grants to assist in the replacement or rehabilitation of existing teaching facilities for the training of physicians, pharmacists, optometrists, podiatrists, veterinarians, professional public health personnel, or dentists. For such grants there are also authorized to be appropriated $170,000,000 for the fiscal year ending June 30, 1970, and $225,000,000 for the next fiscal year. Sums so appropriated for any fiscal year shall remain available for obligation through the close of the next fiscal year.

### APPROVAL OF APPLICATIONS

42 U.S.C. 293a

Sec. 721. (a)[12] The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

(b) [13] (1) To be eligible to apply for a grant to assist in the construction of any facility under this part, the applicant must be (A) a public or other nonprofit school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health and (B) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for a grant to construct a facility under this part, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this

[10] Pt. B added by sec. 2(b) of P.L. 88–129.
[11] Sec. 720 amended by sec. 101 of P.L. 90–490 which added the last two sentences. Subsec. 101(b)(2) of P.L. 90–490 states that the last two sentences shall apply only with respect to appropriations for fiscal years ending after June 30, 1969.
[12] Sec. 721(a) amended by sec. 3(b) of P.L. 89–290.
[13] Sec. 721(b) amended by sec. 2(b)(1) of P.L. 89–709.

part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies: (i) prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or (ii) if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

(2) Notwithstanding paragraph (1), in the case of an affiliated hospital, an application which is approved by the school of medicine or school of osteopathy with which the hospital is affiliated and which otherwise complies with the requirements of this part may be filed by any public or other nonprofit agency qualified to file an application under section 645.

(3) In the case of any application, whether filed by a school or, in the case of an affiliated hospital, by any other public or other nonprofit agency, for a grant under this part to assist in the construction of a facility which is a hospital as defined in section 631 [13a]—

(A) if the facility is needed in connection with a new school, only that portion of the project to construct the facility which the Surgeon General determines to be reasonably attributable to the need of such school for the facility for teaching purposes,

(B) if the construction is in connection with expansion of the training capacity of an existing school, only that portion of the project to construct the facility which the Surgeon General determines to be reasonably attributable to the need of such school for the facility in order to expand its training capacity.

(C) if the construction is in connection with renovation or rehabilitation of facilities used by an existing school, only that portion of the project which the Surgeon General determines to be reasonably attributable to the need of such school for the facilities in order to prevent curtailment of enrollment or quality of training of the school,

shall be regarded as the project with respect to which payments may be made under section 722.

(c) A grant under this part may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b):

(2) [14] the application contains or is supported by reasonable assurances that (A) the facility is in-

[13a] Reference should be to sec. 645.

[14] Subsec. 721(c)(2)(A) amended by subsecs. 103 (a)(3) and (b) of P.L. 90–490 to apply in the case of assurances given after August 16, 1968, under such pt. B.

tended to be used for the purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for construction to expand the training capacity of an existing school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the next nine school years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 771(b) of this Act, where applicable;

(3)[15] (A) in the case of an application for a grant from funds appropriated pursuant to clause (1) of section 720, such application is for aid in the construction of a new school of medicine, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, or construction which will expand the training capacity of an existing school of medicine, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, (B) in the case of an application for a grant from funds appropriated pursuant to clause (2) of such section, such application is for aid in the construction of a new school of dentistry or construction which will expand the capacity of an existing school of dentistry, or (C) in the case of an application for a grant from funds appropriated pursuant to clause (3) of such section, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, osteopathy, or public health which are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided (and, for purposes of this part, expansion or curtailment of capacity for continuing education shall also be

[15] Subsec. 721(c)(3) amended by addition of parenthetical clause by sec. 105(a) of P.L. 90–490. The amendment shall apply in the case of projects for which grants are made under pt. B of title VII of the Public Health Service Act from appropriations for fiscal years ending after June 30, 1969.

considered expansion and curtailment, respectively, of training capacity);

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

(5) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

(6) if the application requests aid in construction of a facility which is a hospital or diagnostic or treatment center,[16] as defined in section 631,[17] an application with respect thereto has been filed under title VI and has been denied thereunder because (A) the project has no or insufficient priority, or (B) funds are not available for the project from the State's allotments under title VI.

Before approving or disapproving an application under this part, the Surgeon General shall secure the advice of the National Advisory Council on Education for Health Professions established by section 725 (hereinafter in this part referred to as the "Council").

(d) [18] In considering applications for grants, the Council and the Surgeon General shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of, or used by, an existing school (other than a project for facilities for continuing education), the relative effectiveness of the proposed facilities in expanding the capacity for the training of a first-year students of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or osteopathy (or, in the case of a two-year school which is expanding to a four-year school, expanding the capacity for four-year training of students in the field), or for the training of professional public health personnel, and in promoting an

[16] Defined term was changed from "diagnostic or treatment center" to "outpatient facility" by section 116 of P.L. 91–296.

[17] Reference should be to section 645.

[18] Subsecs. 721(d)(1) (A) and (B) amended by addition of parenthetical clauses by sec. 105(b) of P.L. 90–490. These amendments shall apply in the case of projects for which grants are made under pt. B of title VII of the Public Health Service Act from appropriations for fiscal years ending after June 30, 1969.

equitable geographical distribution of opportunities for such training (giving due consideration to population, available physicians, pharmacists, optometrists, podiatrists, veterinarians, dentists, or professional public health personnel, and available resources in various areas of the Nation for training such persons); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of, or used by, a school (other than a project for facilities for continuing education), the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State planning agency, or which participates in a regional or other interstate planning agency, described in section 728, the relationship of the application to the construction or training program which is being developed by such agency with respect to such State and, if such agency has reviewed such application, any comment thereon submitted by such agency.

AMOUNT OF GRANT; PAYMENTS

SEC. 722. (a)(1) Except as provided in paragraph (2) of this subsection, the amount of any grant under this part shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council; except that (A) in the case of a grant for a project for a new school, and in the case of a grant for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, such amount may not exceed 66⅔ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) [19] in the case of any other grant, such amount may not, except where the Secretary determines that unusual circumstances make a larger percentage (which in no case may exceed 66⅔ per centum) necessary in order to effectuate the purposes of this part, exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made. 42 U.S.C. 293b

[19] Subsec. 722(a)(1)(B) amended by sec. 102(a) of P.L. 90-490, to apply for grants made after June 30, 1969.

(2) The amount of any grant under this part for construction of a project with respect to a school of public health shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council, and may not exceed 75 per centum of the necessary cost of construction, as determined by the Surgeon General, of such project.

(b) Upon approval of any application for a grant under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) [20] In the case of a project for construction of facilities which are primarily (as determined in accordance with regulations of the Secretary) for teaching purposes and for which a grant may be made under this part, but which also are for research purposes, or research and related purposes, in the sciences related to health (within the meaning of part A of this title) or for medical library purposes (within the meaning of part I [21] of title III), the project shall, insofar as all such purposes are involved, be regarded as a project for facilities with respect to which a grant may be made under this part.

RECAPTURE OF PAYMENTS

42 U.S.C. 293c

SEC. 723.[22] If, within twenty years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit school or, in case the facility was an affiliated hospital, the appli-

[20] Sec. 722(d) added by sec. 104(a) of P.L. 90–490. Sec. 722(d) to apply in the case of projects for which grants are made under pt. B of title VII of the Public Health Service Act from appropriations for fiscal years ending after June 30, 1969.

[21] Part I was redesignated as part J by P.L. 91–212 but by inadvertence this reference was not changed.

[22] The first sentence of sec. 723 and sec. 723(b) amended by secs. 103(a)(1) and (2) of P.L. 90–490, to apply in the case of facilities for which a grant has been or is in the future made under pt. B of title VII of the Public Health Service Act.

cant or other owner of the facility ceases to be a public or other nonprofit agency qualified to file an application under section 625,[23] or

(b) the facility shall cease to be used for the teaching purposes (and the other purposes permitted under section 722) for which it was constructed, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

(c) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

DEFINITIONS

SEC. 724.[24] As used in this part and parts C, E, and F— 42 U.S.C. 293d

(1) The terms "construction" and "cost of construction" include (A) the construction of new buildings, the expansion of existing buildings, and remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or offsite improvements, and (B) initial equipment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) The term "nonprofit school" means a school owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(3) The term "affiliated hospital" means a hospital, as defined in section 631,[25] which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine or school of osteopathy which meets the eligibility conditions set forth in section 721(b)(1);

[23] Reference should be to section 605.
[24] Sec. 724 amended by sec. 2(b) of P.L. 89-290.
[25] Reference should be to section 645.

(4) [26] The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or doctor of pharmacy, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatry or doctor of surgical chiropody, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health, and including advanced training related to such training provided by any such school; and

(5) The term "school of nursing" means a department, school, division, or other administrative unit, in a college or university, which provides, primarily or exclusively, a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or other baccalaureate degree of equivalent rank; or to a graduate degree in nursing.

NATIONAL ADVISORY COUNCIL ON EDUCATION FOR HEALTH PROFESSIONS

42 U.S.C. 293e

SEC. 725 (a).[27] There is hereby established in the Public Health Service a National Advisory Council on Education for Health Professions, consisting of the Surgeon General of the Public Health Service, who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and seventeen members appointed by the Secretary without regard to the civil service laws. Four of the appointed members shall be selected from the general public and thirteen shall be selected from among leading authorities in the fields of higher education, at least nine of whom are particularly concerned with training in medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine or the public health professions. In selecting persons for appointment to the Council, consideration shall be given to such factors, among others, as (1) experience in the plan-

[26] Sec. 724(4) amended by sec. 105(c) of P.L. 90–490. The clause "and including . . ." shall apply in the case of projects for which grants are made under pt. B of title VII of the Public Health Service Act from appropriations for fiscal years ending after June 30, 1969.

[27] Sec. 725(a) amended by sec. (c) of P.L. 90–174. Sec. 131 of P.L. 90–490 states that the Secretary shall, in consultation with the Advisory Councils established by secs. 725 and 774, prepare, and submit to the President and the Congress prior to July 1, 1970, a report on the administration of pts. B, C, E, and F of title VII of the Public Health Service Act, an appraisal of the programs under such parts in the light of their adequacy to meet the long-term needs for health professionals, and his recommendations as a result thereof.

ning, constructing, financing, or administration of schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or schools of public health, and (2) familiarity with the need for teaching facilities in all areas of the Nation.

(b) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part, and in the review of applications thereunder.

(c) The Surgeon General is authorized to use the services of any member or members of the Council in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Surgeon General shall, in addition, make appropriate provision for consultation between the coordination of the work of the Council and the National Advisory Council on Health Research Facilities with respect to matters bearing on the purposes and administration of this part.

(d)[28] * * *

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

SEC. 726. Nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution. 42 U.S.C. 293f

REGULATIONS

SEC. 727. (a) The Surgeon General, after consultation with the Council and with the approval of the Secretary, shall prescribe general regulations for this part covering the eligibility of institutions, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and minimum standards of construction and equipment for various types of institutions. 42 U.S.C. 293g

(b) The Surgeon General is authorized to make, with the approval of the Secretary, such other regulations as he finds necessary to carry out the provisions of this part.

TECHNICAL ASSISTANCE

SEC. 728.[29] In carrying out the purposes of this part, and to further the development of State, or joint or coordinated regional or other interstate, planning of programs for relieving shortages of training capacity in the 42 U.S.C. 293h

[28] Sec. 725(d) deleted by sec. 601(b)(2) of P.L. 91–515.
[29] Sec. 3(a) of P.L. 88–581, amended sec. 728, by deleting "nursing".

fields of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and public health, through constructing teaching facilities, providing adequate financial support for schools, or otherwise, the Surgeon General is authorized to provide technical assistance and consultative services to State or interstate planning agencies established for any of such purposes.

## Part C—Student Loans

### LOAN AGREEMENTS

42 U.S.C. 294

Sec. 740. (a) [30] The Secretary of Health, Education, and Welfare is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this part with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 721(b)(1)(B).

(b) [31] Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 746, of (A) [32] the Federal capital contributions to the fund, (B) [33] an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution, (C) collections of principal and interest on loans made from the fund, (D) [34] collections pursuant to section 741(j), and (E) any other earnings of the fund;

(3) provide that the fund, except as provided in section 746, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

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[30] Secs. 740 (a) and (b)(4) amended by secs. 3 (a) and (b), respectively, of P.L. 89–709.

[31] Secs. 740(b)(2) (A) and (B) amended by sec. 5(c)(1) of P.L. 89–751.

[32] Sec. 740(b)(2)(A) amended by:

(a) Sec. 5(d)(1) of P.L. 89–751 to "* * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 744 of the Public Health Service Act as in effect prior to the enactment of this Act."

(b) Sec. 5(d)(2) of P.L. 89–751, to authorize the Secretary of Health, Education, and Welfare, "* * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 740(b)(2)(A) of Public Health Service Act) to a student loan fund of such institution, made under title VII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 744 of such Act as amended by this Act."

[33] Subsecs. 740(b)(2) and (3) amended by addition of clause set off by commas by sec. 121(a)(1) of P.L. 90–490. These amendments shall be effective for appropriations after June 30, 1969.

[34] Subsec. 740(b)(2)(D) amended by subsec. 121(a)(5)(B) of P.L. 90–490, effective with respect to loans made after June 30, 1969.

(4) [35] provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree, and that while the agreement remains in effect no such student who has attended such school before July 1, 1971, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

LOAN PROVISIONS

SEC. 741. (a) [36] Loans from a loan fund established under this part may not exceed $2,500 for any student for any academic year or its equivalent. In the granting of such loans, a school shall give preference to persons who enter as first-year students after June 30, 1963. 42 U.S.C. 294a

(b) [37] Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

(c) [38] Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act; and periods (up to five years) of advanced professional training including internships and residences.

[35] Subsec. 740(b)(4) amended by subsec. 121(a)(2) of P.L. 90–490.
[36] Sec. 741(a) amended by sec. 4(b)(1) of Public Law 89–290.
[37] Sec. 741(b) amended by sec. 3(c) of Public Law 89–709.
[38] Sec. 741(c) amended to read "one year" instead of "three years" by subsec. 121(a)(3) of Public Law 90–490. Last clause of 741(c) added by subsec. 121(a)(3). These amendments shall apply (1) with respect to all loans made under an agreement under pt. (C) of title VII of the Public Health Service Act after June 30, 1969, and (2) with respect to loans made thereunder before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but, then, only as to years beginning after June 30, 1969).

(d) The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently, and totally disabled.

(e) [39] Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 3 per centum per year.

(f) [40] Where any person who obtained one or more loans from a loan fund established under this part—

(1) engages in the practice of medicine, dentistry, optometry, or osteopathy in an area in a State determined by the appropriate State health authority, in accordance with regulations provided by the Secretary, to have a shortage of and need for physicians, optometrists or dentists; and

(2) the appropriate State health authority certifies to the Secretary of Health, Education, and Welfare in such form and at such times as the Secretary may prescribe that such practice helps to meet the shortage of and need for physicians, optometrists or dentists in the area where the practice occurs; then 10 per centum of the total of such loans, plus accrued interest on such amount, which are unpaid as of the date that such practice begins, shall be canceled thereafter for each year of such practice, up to a total of 50 per centum of such total, plus accrued interest thereon.

In the case of a physician, dentist, or optometrist, the rate shall be 15 per centum (rather than 10 per centum) for each year of such practice in an area in a State which for purposes of this subsection and for that year has been determined by the Secretary, pursuant to regulations and after consultation with the appropriate State health authority, to be a rural area characterized by low family income; and, for the purpose of any cancellation pursuant to this sentence, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled.

(g) [41] Loans shall be made under this part without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(h) [41] No note or other evidence of a loan made under this part may be transferred or assigned by the school

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[39] Sec. 741(e) amended by deletion of several sentences by subsec. 121(a)(4) of P.L. 90–490, effective with respect to loans made after June 30, 1969.

[40] Sec. 741(f) amended by sec. 4(a) of P.L. 89–751.

[41] These subsections, formerly (f) and (g), were redesignated by subsec. 4(b)(2) of P.L. 89–290.

making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

(i) [42] Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(j) [43] Subject to regulations of the Secretary, a school may assess a charge with respect to a loan made under this part for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) or cancellation of part or all of the loan under subsection (f), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(k) [43] A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this part payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

AUTHORIZATION OF APPROPRIATIONS

Sec. 742. (a) [44] There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out this part (other than section 744) $5,100,000 for the fiscal year ending June 30, 1964, $10,200,000 for the fiscal year ending June 30, 1965, $15,400,000 for the fiscal year ending June 30, 1966, $25,000,000 each for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, and $35,000,000 each for the fiscal year ending June 30, 1970, and the next fiscal year. In addition to the sums authorized to be appropriated by the preceding sentence, there are authorized to be appropriated $500,000 for the fiscal year end- 42 U.S.C. 294b

[42] This subsection, formerly (h), was redesignated by subsec. 4(b)(2) of P.L. 89–290.

[43] Secs. 741 (j) and (k) added by subsec. 121(a)(5)(A) of P.L. 90–490, effective with respect to loans made after June 30, 1969.

[44] Sec. 742(a) amended by sec. 121(b) of P.L. 90–490. Clause (3) applies with respect to appropriations for fiscal years after June 30, 1969.

ing June 30, 1967, $1,000,000 for the fiscal year ending June 30, 1968, and $1,500,000 for the fiscal year ending June 30, 1969, which sums shall be available for carrying out this part (other than section 744) solely with respect to students of veterinary medicine. There are further authorized to be appropriated to the Secretary such sums for the fiscal year ending June 30, 1972, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1971, to continue or complete their education. Sums appropriated under this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 744(d), (2) for making Federal capital contributions into loan funds at schools which have established loan funds under this part, and (3) for transfers pursuant to section 746.

(b)[45](1) The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions, and for loans pursuant to section 744.

(2) If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

(3) Funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 744) which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this part.

(4) Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

[45] Secs. 742(b) (1) and (2) amended by secs. 5(b) (2) and (3), respectively, of P.L. 89–751, and sec. 742(b) further amended by redesignating paragraph (3) as paragraph (4) and inserting a new paragraph (3), by sec. 5(b) (4) of P.L. 89–751.

DISTRIBUTION OF ASSETS FROM LOAN FUNDS

SEC. 743.[46] (a) After June 30, 1974, and not later than September 30, 1974, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 740(b) by each school as follows: 42 U.S.C. 294c

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1974, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 740(b)(2)(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 740(b)(2)(B).

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1974, each school with which the Secretary has made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1974, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 744(d)) as was determined for the Secretary under subsection (a).

LOANS TO SCHOOLS; REVOLVING FUND

Loans to Schools

SEC. 744.[47] (a)(1) During the fiscal years ending June 30, 1967, and June 30, 1968, and each of the next three fiscal years, the Secretary may make loans, from the revolving fund established by subsection (d), to any public or other nonprofit school referred to in section 740(a) which is located in a State and is accredited as provided in section 721(b)(1)(B), to provide all or part of the capital needed by any such school for making loans to 42 U.S.C. 293a 42 U.S.C. 294

[46] Sec. 743 amended by sec. 121(c) of P.L. 90–490 by striking out "1972" wherever it appeared therein and inserting in lieu thereof "1974." Subsecs. (a) and (b) of sec. 743 amended by subsecs. (2) (A) and (B), and (3), respectively, of sec. 5(c) of P.L. 89–751.

[47] Sec. 744 amended by:

(a) Sec. 5(a) of P.L. 89–751.

(b) Sec. 5(d)(1) of P.L. 89–751; sec. 744(b) is to "* * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 744 of the Public Health Service Act as in effect prior to the enactment of this Act.

(c) Sec. 5(d)(2) of P.L. 89–751, to authorize the Secretary of Health, Education, and Welfare, "* * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 740(b)(2)(A) of the Public Health Service Act) to a student loan fund of such institution, made under title VII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 744 of such Act as amended by this Act."

(d) Sec. 121(d) of P.L. 90–490.

students under this section (other than capital needed to finance the institutional contributions required by section 740(b)(2)(B)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in section 741. The requirement in section 740(b)(2)(B) with respect to institutional contributions to student loan funds shall not apply to loans made to schools under this section.

(2) A loan to a school under this section may be upon such terms and conditions, consistent with applicable provisions of section 740, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this section will be achieved, these terms and conditions may include provisions making the school's obligation to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (A) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, and (B) probable losses.

77 Stat. 170
42 U.S.C. 294

Payments to Schools To Cover Certain Costs Incurred in Making Student Loans From Borrowed Funds

(b) If a school borrows any sums under this section, the Secretary shall agree to pay to the school (1) an amount equal to 90 per centum of the loss to the school from defaults on student loans made from such sums, (2) the amount by which the interest payable by the school on such sums exceeds the interest received by it on student loans made from such sums, (3) an amount equal to the collection expenses authorized by section 740(b)(3) to be paid out of a student loan fund with respect to such sums, and (4) the amount of principal which is canceled pursuant to section 741 (d) or (f) with respect to student loans made from such funds. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this subsection.

79 Stat. 1057
42 U.S.C. 294a

Limitation on Loans From Revolving Fund

(c) The total of the loans made in any fiscal year under this section may not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $45,000,000 and the amount of Federal funds (other than loans under this section) deposited in student loan funds under this part for that year.

Revolving Fund

(d) (1) There is hereby created within the Treasury a health professions education fund (hereinafter in this section called "the fund") which shall be available to the Secretary without fiscal-year limitation as a revolving fund for the purposes of this section. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly owned Government Corporations.

(2) The fund shall consist of appropriations paid into the fund pursuant to section 742(a), appropriations made pursuant to this subsection, all amounts received by the Secretary as interest payments or repayments of principal on loans under this section, and any other moneys, property, or assets derived by him from his operations in connection with this section (other than subsection (b)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund. 59 Stat. 598; 61 Stat. 584; 77 Stat. 172; 42 U.S.C. 294b

(3) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this section (other than subsection (b)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this section. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this section, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury. 78 Stat. 800; 12 U.S.C. 1717; *Ante*, p. 164

(4) In addition to the sums authorized to be appropriated by section 742(a), there are authorized to be appropriated to the fund established by this subsection $10,000,000 for the fiscal year ending June 30, 1967.

ADMINISTRATIVE PROVISIONS

42 U.S.C. 294e

SEC. 745. The Secretary may agree to modifications of agreements or loans made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part.

TRANSFER OF FUNDS TO SCHOLARSHIPS

SEC. 746.[48] Not to exceed 20 per centum of the amount paid to a school from the appropriations for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under part F of this title to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 740(b)(2)(B) with respect to the amount so transferred may be withdrawn by the school from such fund.

## PART D—CENTERS FOR RESEARCH ON MENTAL RETARDATION AND RELATED ASPECTS OF HUMAN DEVELOPMENT[49]

AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 295

SEC. 761. There are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1964, $8,000,000 for the fiscal year ending June 30, 1965, and $6,000,000 each for the fiscal year ending June 30, 1966, and the fiscal year ending June 30, 1967, for project grants to assist in meeting the costs of construction of facilities for research, or research and related purposes, relating to human development, whether biological, medical, social, or behavioral, which may assist in finding the causes, and means of prevention, of mental retardation, or in finding means of ameliorating the effects of mental retardation. Sums so appropriated shall remain available until expended for payments with respect to projects for which applications have been filed under this part before July 1, 1967, and approved by the Surgeon General thereunder before July 1, 1968.

APPLICATIONS

42 U.S.C. 295a

SEC. 762. (a) Applications for grants under this part with respect to any facility may be approved by the Surgeon General only if—

(1) the applicant is a public or nonprofit institution which the Surgeon General determines is com-

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[48] Sec. 746 added by sec. 121(e) of P.L. 90–490. The amendment applies with respect to appropriations for fiscal years after June 30, 1969.

[49] Pt. D added by sec. 101 of P.L. 88–164.

petent to engage in the type of research for which the facility is to be constructed; and

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the research, or research and related purposes, for which it was constructed; (B) sufficient funds will be available for meeting the non-Federal share of the cost of constructing the facility; (C) sufficient funds will be available, when facility for the research, or research and related purposes, for which it was constructed; and (D) all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the center will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have, with respect to the labor standards specified in the clause (D) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) In acting on applications for grants, the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in expanding the Nation's capacity for research and related purposes in the field of mental retardation and related aspects of human development, and such other factors as he, after consultation with the national advisory council or councils concerned with the field or fields of research involved, may by regulation prescribe in order to assure that the facilities constructed with such grants, severally and together, will best serve the purpose of advancing scientific knowledge pertaining to mental retardation and related aspects of human development.

AMOUNT OF GRANTS; PAYMENTS

SEC. 763. (a) The total of the grants with respect to any project for the construction of a facility under this part may not exceed 75 per centum of the necessary cost of construction of the center as determined by the Surgeon General. 42 U.S.C. 295b

(b) Payments of grants under this part shall be made in advance or by way of reimbursement, in such installments consistent with construction progress, and on such conditions as the Surgeon General may determine.

(c) No grant may be made after January 1, 1964, under any provision of this Act other than this part, for any of the four fiscal years in the period beginning

July 1, 1963, and ending June 30, 1967, for construction of any facility described in this part, unless the Surgeon General determines that funds are not available under this part to make a grant for the construction of such facility.

RECAPTURE OF PAYMENTS

42 U.S.C. 295c

SEC. 764. If, within twenty years after completion of any construction for which funds have been paid under this part—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(2) the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

42 U.S.C. 295d

SEC. 765. Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related purposes conducted by, and the personnel or administration of, any institution.

DEFINITIONS

42 U.S.C. 295e

SEC. 766. As used in this part—

(1) the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered;

(2) the term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

## Part E—Grants To Improve the Quality of Schools of Medicine, Dentistry, Osteopathy, Optometry, and Podiatry [50]

### AUTHORIZATION FOR APPROPRIATIONS

Sec. 770. (a) There are authorized to be appropriated $117,000,000 for the fiscal year ending June 30, 1970, and $168,000,000 for the fiscal year ending June 3, 1971, for institutional grants under section 771 and special project grants under section 772.

(b) The portion of the sums so appropriated for each fiscal year which shall be available for grants under each such section shall be determined by the Secretary unless otherwise provided in the Act or Acts appropriating such sums for such year.

### INSTITUTIONAL GRANTS

Sec. 771. (a) (1) The sums available for grants under this section from appropriations under section 770 for the fiscal year ending June 30, 1970, and for the next fiscal year shall be distributed to the schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry with approved applications as follows: Each school shall receive $25,000; and of the remainder—

(A) 75 per centum shall be distributed on the basis of—

(i) the relative enrollment of full-time students for such year, and

(ii) the relative increase in enrollment of such students for such year over the average enrollment of such school for the five school years preceding the year for which the application is made;

with the amount per full-time student so computed that a school receives twice as much for each such student in the increase as for other full-time students, and

(B) 25 per centum shall be distributed on the basis of the relative number of graduates for such year.

In computing the increase under clause (a) (ii) of the preceding sentence for any school, there shall be excluded a number equal to the increase required by subsection (b) (1) (except in the case of a school to which the third sentence of such subsection applies).

(2) For the fiscal years ending June 30, 1970, and June 30, 1971, only, the sum computed under paragraph (1) for any school which is less than the amount such

[50] Pt. E aded by sec. 2(a) of P.L. 89–290, and revised by sec. 111(a) of P.L. 90–490, and title I of P.L. 91–519.

school received under this section for the fiscal year ending June 30, 1969, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the sums computed under such paragraph (1) for the remaining schools, but with such adjustments as may be necessary to prevent the sums computed for any of such remaining schools from being reduced to less than the amount it received for such fiscal year ending June 30, 1969, under this section.

(b) (1) The Secretary shall not make a grant under this section to any school unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the first-year enrollment of full-time students in such school will exceed the average of the first-year enrollments of such students in such school for the two school years having the highest such enrollment during the five school years during the period of July 1, 1963, through June 30, 1968, by at least 2½ per centum of such average first-year enrollments, or by five students, whichever is greater. The requirements of this paragraph shall be in addition to the requirements of section 721(c)(2)(D) of this Act, where applicable. The Secretary is authorized to waive (in whole or in part) the provisions of this paragraph if he determines, after consultation with the National Advisory Council on Health Professions Educational Assistance, that the required increase in first-year enrollment of full-time students in a school cannot, because of limitations of physical facilities available to the school for training, be accomplished without lowering the quality of training provided therein.

(2) Notwithstanding the preceding provisions of this section, no grant under this section to any school for any fiscal year may exceed the total of the funds from non-Federal sources expended (excluding expenditures of a nonrecurring nature) by the school during the preceding year for teaching purposes (as determined in accordance with criteria prescribed by the Secretary), except that this paragraph shall not apply in the case of a school which has for such year a particular year-class which it did not have for the preceding year or in the case of Howard University.

(c) (1) For purposes of this part and part F, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, as the case may be, on the basis of estimates or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or were graduates, in an earlier year, as the case

may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part F, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry, or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy, or doctor of pharmacy, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree.

(d)[51] In the case of a new school of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, or podiatry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subparagraph (a)(1)(A) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

SPECIAL PROJECT GRANTS [52]

SEC. 772. (a) Grants may be made, from sums available therefor from appropriations under section 770 for the fiscal year ending June 30, 1970, and for the next fiscal year, to assist schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and veterinary medicine in meeting the cost of special projects to plan, develop, or establish new programs or modifications of existing programs of education in such health professions or to effect significant improvements in curriculums of any such schools or for research in the various fields related to education in such health professions, or to develop training for new levels or types of health professions personnel, or to assist any such schools which are in serious financial straits to meet their costs of operation or which have special need for financial assistance to meet the accreditation requirements, or to assist any such schools to meet the costs of planning experimental teaching facilities or experimental design thereof, or which will otherwise strengthen, improve, or expand pro-

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[51] Sec. 771(d) added by sec. 101 of P.L. 91–519. This section shall be effective only with respect to sums available for grants under sec. 771 of the PHS Act from appropriations under sec. 770 of such act for the fiscal years ending after June 30, 1970.

[52] Sec. 772 amended by sec. 102 of P.L. 91–519 which added the last sentence to subsection (a) and added a new subsection (b). This amendment shall apply only with respect to appropriations under sec. 770 of the PHS Act made after date of enactment.

grams to train personnel in such health professions or help to increase the supply of adequately trained personnel in such health professions needed to meet the health needs of the Nation. Sums appropriated under section 770 for the fiscal year ending June 30, 1971, for grants under this section to assist any such schools which are in serious financial straits to meet their costs of operation shall remain available to make such grants until June 30, 1972.

(b) The Congress finds and declares that the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools which provide the highest quality of teaching, medical and dental research, and delivery of health care for the Nation. The Secretary shall determine the need for emergency financial assistance to such medical and dental schools and shall report to the Congress on or before June 30, 1971, his determinations of such need and his recommendations for such administrative and legislative action as he determines is necessary to meet such needs.

APPLICATIONS FOR GRANTS

SEC. 773. (a)[53] The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under section 771 or 772 for any fiscal year must be filed.

(b)[54] To be eligible for a grant under this part, the applicant must (1) be a public or other nonprofit school of medicine, dentistry, osteopathy, optometry, pharmacy, veterinary medicine, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause (2) shall be deemed to be satisfied if, (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Surgeon General makes a final determination as to approval of

[53] Sec. 773(a) amended by subsec. 111(b)(1) of P.L. 90–490. This amendment which strikes out the words "basic or special" before "grants" shall apply with respect to appropriations for fiscal years ending after June 30, 1969.

[54] The words "pharmacy, veterinary medicine," added by subsec. 111(b)(2) of P.L. 90–490 to apply with respect to appropriations for fiscal years ending after June 30, 1969.

the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Surgeon General that there is reasonable ground to expect that, with the aid of a grant or grants under this part, having regard for the purposes of the grant sought, such school will meet such accreditation standards within a reasonable time.

(c)[55] The Surgeon General shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Health Professions Educational Assistance (established by section 774).

(d) A grant under this part may be made only if the application therefor—

(1) is approved by the Surgeon General upon his determination that the applicant meets the eligibility conditions set forth in subsection (b) of this section;

(2)[56] contains or is supported by assurances satisfactory to the Surgeon General that the applicant will expend in carrying out its functions as a school of medicine, dentistry, osteopathy, optometry, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Surgeon General) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(3) contains such additional information as the Surgeon General may require to make the determination required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

(4) provides for such fiscal-control and accounting procedures and reports, and access to the records of the applicant, as the Surgeon General may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

(e)[57] In determining priority of projects applications for which are filed under section 772, the Secretary shall give consideration to—

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[55] Subsec. 111(b)(3) of P.L. 90–490 changed with respect to appropriations for fiscal years ending after June 30, 1969, the name of Council from National Advisory Council on Medical, Dental, Optometric and Podiatric Education.

[56] Subsec. 773(d)(2) amended by subsec. 111(b)(4) of P.L. 90–490, which added parenthetical phrase to apply with respect to appropriations for fiscal years ending after June 30, 1969.

[57] Sec. 773(e) amended by subsec. 111(b)(5) of P.L. 90–490 to apply with respect to appropriations for fiscal years ending after June 30, 1969.

(1) the extent to which the project will increase enrollment of full-time students receiving the training for which grants are authorized under this part;

(2) the relative need of the applicant for financial assistance to maintain or provide for accreditation or to avoid curtailing enrollment or reduction in the quality of training provided; and

(3) the extent to which the project may result in curriculum improvement or improved methods of training or will help to reduce the period of required training without adversely affecting the quality thereof.

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE

Membership

SEC. 774.[58] (a) There is hereby established in the Public Health Service a National Advisory Council on Health Professions Educational Assistance consisting of the Surgeon General, who shall be Chairman, and fourteen members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare, and such appointments may be made for specified staggered terms. The appointed members of the Council shall be selected from among leading authorities in the fields of medical, dental, optometric, podiatric, pharmaceutical, and veterinary education, respectively, except that not less than three of such members shall be selected from the general public.

(b) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part and part F, and in the review of applications under this part.

(c) The Surgeon General is authorized to use the services of any member or members of the Council in connection with matters related to the administration of this part or part F, for such periods in addition to conference periods, as he may determine.

(d)[59] * * *

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[58] Sec. 774 amended by sec. 111(c) of P.L. 90–490 to apply with respect to appropriations for fiscal years ending after June 30, 1969.

Sec. 131 of P.L. 90–490 states that the Secretary shall, in consultation with the Advisory Councils established by secs. 725 and 774, prepare, and submit to the President and the Congress prior to July 1, 1970, a report on the administration of pts. B, C, E, and F of title VII of the Public Health Service Act, an appraisal of the programs under such parts in the light of their adequacy to meet the long-term needs for health professionals, and his recommendations as a result thereof.

[59] Sec. 774(d) deleted by sec. 601(b)(2) of P.L. 91–515.

## Part F—Scholarship Grants to Schools of Medicine, Osteopathy, Dentistry, Optometry, Podiatry, Pharmacy, or Veterinary Medicine [60]

### SCHOLARSHIP GRANTS

Sec. 780.[61] (a) The Surgeon General shall make grants as provided in this part to each public or other nonprofit school of medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, or veterinary medicine which is accredited as provided in section 721(b)(1)(B) or section 773(b)(2), for scholarships to be awarded annually by such school to students thereof.

(b) The amount of the grant under subsection (a) to each such school shall be equal to $2,000 multiplied (1) for the fiscal year ending June 30, 1966, by one-tenth of the number of full-time first-year students of such school; (2) for the fiscal year ending June 30, 1967, by one-tenth of the number of full-time first-year students and second-year students of such school; (3) for the fiscal year ending June 30, 1968, by one-tenth of the number of full-time first-year students, second-year students, and third-year students of such school; and (4) for the fiscal year ending June 30, 1969, and each of the next two fiscal years, by one-tenth of the number of full-time students of such school. For the fiscal year ending June 30, 1972, and for each of the two succeeding fiscal years, the grant under subsection (a) shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending prior to July 1, 1971.

(c)(1) Scholarships may be awarded by schools from grants under subsection (a)—

(A) only to individuals who have been accepted by them for enrollment as full-time first-year students, in the case of awards from such grants for the fiscal year ending June 30, 1966;

(B) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time second-year students, in the case of awards from such grants for the fiscal year ending June 30, 1967;

(C) only to individuals who have been so ac-

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[60] Title of pt. F amended by sec. 122 of P.L. 90–490 by addition of words "veterinary medicine," effective with respect to appropriations for fiscal years after June 30, 1969.

[61] Sec. 122 of P.L. 90–490 amended sec. 780, effective with respect to appropriations for fiscal years after June 30, 1969 by:

(a) Adding words "veterinary medicine" in 780(a);

(b) Changing dates from 1970 and 1969 to 1972 and 1971 respectively in 780(b) and 780(c)(1)(E);

(c) Adding a clause at the end of 780(c)(1)(D);

(d) Substituting words "of exceptional financial need who need such financial assistance to" for "from low-income families who, without such financial assistance could not" in sec. 780(c)(2); and

(e) Changing name of the National Advisory Council on Medical, Dental, Optometric, and Podiatric Education to the National Advisory Council on Health Professions Educational Assistance in 780(d).

cepted, and individuals enrolled and in good standing as full-time second-year or third-year students, in the case of awards from such grants for the fiscal year ending June 30, 1968;

(D) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time students, in the case of awards from such grants for the fiscal year ending June 30, 1969, and each of the next two fiscal years; and

(E) only to individuals enrolled and in good standing as full-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to July 1, 1971, in the case of awards from such grants for the fiscal year ending June 30, 1972, or the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $2,500 for any year, as such school may determine the student needs for such year on the basis of his requirements and financial reresources.

(d) Grants under subsection (a) shall be made in accordance with regulations prescribed by the Surgeon General after consultation with the National Advisory Council on Health Professions Educational Assistance.

(e) Grants under subsection (a) may be paid in advance or by way of reimbursement, and at such intervals as the Surgeon General may find necessary; and with appropriate adjustments on account of overpayments or underpayments previously made.

TRANSFER TO STUDENT LOAN FUNDS

SEC. 781.[62] Not to exceed 20 per centum of the amount paid to a school from the appropriations for any fiscal year for scholarships under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under part C for (and to be regarded as) Federal capital contributions, to be used for the same purpose as such sums.

[62] Sec. 781 added by sec. 122(d) of P.L. 90–490, effective with respect to appropriations after June 30, 1969.

## Part G—Training in the Allied Health Professions [63]

### Grants for Construction of Teaching Facilities for Allied Health Professions Personnel

#### Authorization of Appropriations

Sec. 791.[64] (a) (1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions, or replacement or rehabilitation of existing facilities for such centers, $3,000,000 for the fiscal year ending June 30, 1967; $9,000,000 for the fiscal year ending June 30, 1968; $13,500,000 for the fiscal year ending June 30, 1969; $10,000,000 for the fiscal year ending June 30, 1970; $20,000,000 for the fiscal year ending June 30, 1971; $30,000,000 for the fiscal year ending June 30, 1972; and $40,000,000 for the fiscal year ending June 30, 1973. 80 Stat. 1222

(2) Sums appropriated pursuant to paragraph (1) for a fiscal year shall remain available for grants under this section until the close of the next fiscal year.

#### Approval of Applications for Construction Grants

(b) (1) No application for a grant under this section may be approved unless it is submitted to the Surgeon General prior to July 1, 1972. The Surgeon General may from time to time set dates (not earlier than the fiscal year preceding the year for which a grant is sought) by which applications for grants under this section for any fiscal year must be filed.

(2) A grant under this section may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(A) the applicant is a public or nonprofit private training center for allied health professions;

(B) the application contains or is supported by reasonable assurances that (i) for not less than ten years after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (iv) in the case of an application for a grant for construction to expand the training capacity of a training center for allied

[63] Pt. G added by sec. 2 of P.L. 89–751.
[64] Sec. 791 amended by sec. 301(a) of P.L. 90–490 and sec. 201 of P.L. 91–519.

health professions, for the first full school year after the completion of the construction and for each of the nine years thereafter, the enrollment of full-time students at such center will exceed the highest enrollment of such students at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest enrollment, and the requirements of this clause (iv) shall be in addition to the requirements of section 792(b)(2), where applicable;

(C)(i) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new training center for allied health professions, or construction which will expand the training capacity of an existing center, or (ii) in the case of an application for a grant for replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of an existing training center for allied health professions which are so obsolete as to require the center to curtail substantially either its enrollment or the quality of the training provided;

(D) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(E) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph (E), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

49 Stat. 1011; 78 Stat. 238

63 Stat. 108

(3) Notwithstanding paragraph (2), in the case of an affiliated hospital, an application which is approved by the training center for allied health professions with which the hospital is affiliated and which otherwise complies with the requirements of this section, may be filed by any public or other nonprofit agency qualified to file an application under section 605.

78 Stat. 453
42 U.S.C. 291e

(4) In the case of any application, whether filed by a training center or, in the case of an affiliated hospital, by any other public or other nonprofit agency, for a grant under this section to assist in the construction of a fa-

cility which is a hospital or part of a hospital, as defined in section 645, only that portion of the project which the Surgeon General determines to be reasonably attributable to the need of such training center for the project for teaching purposes or in order to expand its training capacities or in order to prevent curtailment of enrollment or quality of training, as the case may be, shall be regarded as the project with respect to which payments may be made under this section.

(5) In considering applications for grants, the Surgeon General shall take into account—

(A) the extent to which the project for which the grant is sought will aid in increasing the number of training centers for allied health professions providing training in three or more of the curriculums which are specified in or pursuant to paragraph (1)(A) of section 795 and are related to each other to the extent prescribed in regulations;

(B)(i) in the case of a project for a new training center for allied health professions or for expansion of the facilities of an existing center, the relative effectiveness of the proposed facilities in expanding the capacity for the training of students in the allied health professions involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of allied health professions personnel of the kinds to be trained by such center, and available resources in various areas of the Nation for training such personnel); or

(ii) in the case of a project for replacement or rehabilitation of existing facilities of a training center for allied health professions, the relative need for such replacement or rehabilitation to prevent curtailment of the center's enrollment or deterioration of the quality of the training provided by the center, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the allied health professions involved (giving consideration to the factors mentioned above in subparagraph (i)); and

(C) in the case of an applicant in a State which has in existence a State or local area agency involved in planning for facilities for the training of allied health professions personnel, or which participates in a regional or other interstate agency involved in planning for such facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

Amount of Construction Grant; Payments

(c) (1) The amount of any grant for a construction project under this section shall be such amount as the Surgeon General determines to be appropriate; except that (A) in the case of a grant for a project for a new training center for allied health professions, and in the case of a grant for a project for new facilities for an existing center where such facilities are of particular importance in providing a major expansion of the training capacity of such center, as determined in accordance with regulations, such amount may not exceed 66⅔ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(2) Upon approval of any application for a grant under this section, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under paragraph (1); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this subsection may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(3) In determining the amount of any grant under this section, there shall be excluded from the cost of construction an amount equal to the sum of (A) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by the grant under this section, and (B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

Recapture of Payments

(d) If, within ten years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private training center for allied health professions, or

(2) the facility shall cease to be used for the training purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

### GRANTS TO IMPROVE THE QUALITY OF TRAINING FOR ALLIED HEALTH PROFESSIONS [65]

#### Basic Improvement Grants

Sec. 792. (a) (1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, for basic improvement grants under this subsection.

(2) Subject to the provisions of paragraph (3), the Surgeon General may, for each fiscal year in the period beginning July 1, 1966, and ending June 30, 1973, make to each training center for allied health professions whose application for a basic improvement grant has been approved by him a grant equal to the product obtained by multiplying $5,000 by the number of curriculums specified in or pursuant to paragraph (1) (A) of section 795 in which such center provides training during such year, plus the product obtained by multiplying $500 by the number of full-time students in such center receiving training in such curriculums.

(3) The Surgeon General shall not make a grant under this subsection to any center unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the enrollment of full-time students at such center will exceed the highest enrollment of such students in such center for any of the five school years during the period July 1, 1961, through July 1, 1966, by at least 2½ per centum of such highest enrollment, or by three students whichever is greater. The requirements of this paragraph shall be in addition to the requirements of section 791(b) (2) (B) (iv) of this Act, where applicable. The Surgeon General is authorized to waive (in whole or in part) the provisions of this paragraph if he determines that the required increase in enrollment of full-time students in a center cannot, because of limitations

[65] Sec. 792 amended by sec. 301(a) of P.L. 90–490 and sec. 202 of P.L. 91–519, effective for fiscal year beginning July 1, 1970.

of physical facilities available to the center for training, be accomplished without lowering the quality of training for such students.

Special Improvement Grants

(b) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized functions which the center serves.

Special Projects for Experimentation, Demonstration, and Institutional Improvement

(c)(1) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for grants and contracts for special projects under this subsection.

(2) The Secretary is authorized, from sums available therefor from appropriations made under this subsection and subsection (b), to make grants to public or nonprofit private agencies, organizations, and institutions, and to enter into contracts with individuals, agencies, organizations, and institutions, for special projects related to training or retraining of allied health personnel, including—

(A) planning, establishing, demonstrating, or developing new programs, or modifying or expanding existing programs, including interdisciplinary training programs;

(B) developing, demonstrating, or establishing special programs, or adapting existing programs, to reach special groups such as returning veterans with experience in a health field, the economically or culturally deprived, or persons reentering any of the allied health fields;

(C) developing, demonstrating, or evaluating new or improved teaching methods or curriculums;

(D) developing, demonstrating, or establishing interrelationships among institutions which will facilitate the training, retraining, or utilization of allied health manpower;

(E) developing, demonstrating, or evaluating new types of health manpower;

(F) developing, demonstrating, or evaluating techniques for appropriate recognition (including

equivalency and proficiency testing mechanisms) of previously acquired training or experience; and

(G) developing, demonstrating, or evaluating new or improved means of recruitment, retraining, or retention of allied health manpower.

Application for Grants

(d) (1) The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this section for any fiscal year must be filed.

(2) A grant under this section may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(A) in the case of a basic or special improvement grant, it contains or is supported by assurance satisfactory to the Surgeon General that the applicant is a public or nonprofit private training center for allied health professions and will expend in carrying out its functions as such a center, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Surgeon General) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(B) it contains such additional information as the Surgeon General may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section; and

(C) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Surgeon General may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

(3) In considering applications for special improvement grants under subsection (b) and for special project grants under subsection (c), the Surgeon General shall take into consideration the relative financial need of the applicant for such a grant and the relative effectiveness of the applicant's plan in carrying out the purposes of such grants, and in contributing to an equitable geographical distribution of training centers offering high-quality training of allied health professions personnel.

TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PROFESSIONS PERSONNEL

SEC. 793.[66] (a) There are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967; $2,500,000 for the fiscal year ending June 30, 1968; $3,500,000 for the fiscal year ending June 30, 1969; $5,000,000 for the fiscal year ending June 30, 1970; $8,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; and $12,000,000 for the fiscal year ending June 30, 1973; to cover the cost of traineeships for the training of allied health professions personnel to teach health services technicians or in any of the allied health professions, to serve in any of such professions in administrative or supervisory capacities, or to serve in allied health professions specialties determined by the Surgeon General to require advanced training.

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or nonprofit private agencies, organizations, and institutions.

(c) Payments to public or nonprofit agencies, organizations, and institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

GRANTS AND CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT FOR ALLIED HEALTH PROFESSIONS [67]

SEC. 794A. (a) To assist in meeting the need for additional trained personnel in the allied health professions, the Secretary is authorized to make grants to State or local educational agencies or other public or nonprofit private agencies, institutions, and organizations, or enter into contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. (5)), for the purpose of—

(1) identifying individuals of financial, educational, or cultural need with a potential for education or training in the allied health professions, including returning veterans of the Armed Forces of the United States with training or experience in the health field, and encouraging and assisting them, whenever appropriate, to (A) complete secondary school, (B) undertake such postsecondary training as may be required to qualify them for training in

[66] Sec. 793 amended by sec. 301(a) of P.L. 90–490 and sec. 203 of P.L. 91–519.

[67] Secs. 794A–794D added by sec. 204 of P.L. 91–519.

the allied health professions, and (C) undertake postsecondary educational training in the allied health professions, or

(2) publicizing existing sources of financial aid available to persons undertaking training or education in the allied health professions.

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; and $1,250,000 for the fiscal year ending June 30, 1973.

SCHOLARSHIP GRANTS

SEC. 794B. (a) The Secretary is authorized to make (in accordance with such regulations as he may prescribe) grants to public or nonprofit private agencies, institutions, and organizations with an established program for training or retraining of personnel in the allied health professions or occupations specified by the Secretary for (1) scholarships to be awarded by such agency, institution, or organization to students thereof, and (2) scholarships in retraining programs of such agency, institution, or organization to be awarded to allied health professions personnel in occupations for which such agency, institution, or organization determines that there is a need for the development of, or the expansion of, training.

(b) Scholarships awarded by any agency, institution, or organization from grants under subsection (a) shall be awarded for any year only to individuals of exceptional financial need who require such assistance for such year in order to pursue a course of study offered by such agency, institution, or organization.

(c) Grants under subsection (a) may be paid in advance or by way of reimbursement and at such intervals as the Secretary may deem appropriate and with appropriate adjustments on account of overpayments or underpayments previously made.

(d) Any scholarship awarded from grants under subsection (a) to any individual for any year shall cover such portion of the individual's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization awarding the scholarship may determine to be needed by such individual for such year on the basis of his requirements and financial resources; except that the amount of any such scholarship shall not exceed $2,000, plus $600 for each dependent (not in excess of three) in the case of any individual who is awarded such a scholarship.

(e) The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement

and, to the extent practicable, increase the level of non-Federal funds, which would in the absence of such grant, be made available for the purpose for which such grant is requested.

(f) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1971; $5,000,000 for the fiscal year ending June 30, 1972; and $6,000,000 for the fiscal year ending June 30, 1973.

WORK-STUDY PROGRAMS

SEC. 794C. (a) The Secretary is authorized to enter into agreements with public or nonprofit private agencies, institutions, and organizations with established programs for the training or retraining of personnel in the allied health professions specified by the Secretary under which the Secretary will make grants to such agencies, institutions, and organizations to assist them in the operation of work-study programs for individuals undergoing training or retraining provided by such programs.

(b) Any agreement entered into pursuant to this section with a public or nonprofit private agency, institution, or organization shall—

(1) provide that such agency, institution, or organization will operate a work-study program for the part-time employment of its students or trainees either (A) in work for such agency, institution, or organization or (B) pursuant to arrangements between such agency, institution, or organization and another public or private nonprofit agency, institution, or organization, in work which is in the public interest for such other agency, institution, or organization;

(2) provide that any such work-study program shall be operated in such manner that its operation will not result in the displacement of employed workers or impair existing contracts for employment;

(3) provide that any such work-study program will provide conditions of employment, for the students or trainees participating therein, which are appropriate and reasonable in light of such factors as type of work performed, prevailing wages in the area for similar work, and proficiency of the individual in the performance of the work involved;

(4) provide that no Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used for the construction, operation, or maintenance of any facility or part thereof which is used or is to be used for sectarian instruction or as a place for religious worship;

(5) provide that Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used only to make payments to its students or trainees performing work in the work-study program operated by such agency, institution, or organization; except that such agency, institution, or organization may use a portion of such funds to meet administrative expenses connected with the operation of such program, but the portion which may be so used shall not exceed 5 per centum of that part of such funds which is used for the purpose of making payments, to such students or trainees, for work performed for a public or private nonprofit agency, institution, or organization other than the agency, institution, or organization receiving such Federal funds pursuant to such agreement;

(6) provide that such agency, institution, or organization, in selecting students or trainees for employment in such work-study program, will give preference to individuals from low-income families, and that no individual will be selected for employment in such program unless he (A) is in need of the earnings from such employment in order to pursue a course of study (whether on a full-time or part-time basis) for training or retraining of personnel in the allied health professions provided by such agency, institution, or organization, (B) is capable, in the opinion of such agency, institution, or organization, of maintaining good standing in such course of study while employed under such work-study program, and (C) in the case of any individual who at the time he applies for such employment is a new student or trainee, has been accepted for enrollment in such course of study on a full-time basis or part-time and, in the case of any other individual, is enrolled in such course of study on such a basis and is maintaining good standing in such course of study;

(7) provide that such agency, institution, or organization shall, in the operation of such work-study program, provide all individuals desiring employment therein an opportunity to make application for such employment and that, to the extent that necessary funds are available, all eligible applicants will be employed in such program; and

(8) include such other provisions as the Secretary may deem necessary or appropriate to carry out the purposes of this section.

(c) The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of

non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

(d) (1) Funds provided through any grant made under this section shall not be used to pay more than—

(A) 90 per centum, in the case of the period commencing on the date of the enactment of this section and ending with the close of the third June 30th thereafter,

(B) 85 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (A),

(C) 80 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (B), nor

(D) 75 per centum, in the case of any period after the period referred to in clause (C),

of the costs attributable to the payment of compensation to students or trainees for employment in the work-study program with respect to which such grant is made.

(2) (A) In determining (for purposes of paragraph (1)) the amounts attributable to the payment of compensation to students or trainees for employment in any work-study program, there shall be disregarded any Federal funds (other than such funds derived from a grant under this section) used for the payment of such compensation.

(B) In determining (for purposes of paragraph (1)) the total amounts expended for the payment of compensation to students or trainees for employment in any work-study program operated by any agency, institution, or organization receiving a grant under this section, there shall be included the reasonable value of compensation provided by such agency, institution, or organization to such students or trainees in the form of services and supplies (including tuition, board, and books).

(e) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $6,000,000 for the fiscal year ending June 30, 1973.

LOANS FOR STUDENTS OF THE ALLIED HEALTH PROFESSIONS

SEC. 794D. (a) (1) The Secretary is authorized (in accordance with such regulations as he may prescribe) to enter into an agreement for the establishment and operation of a student loan fund in accordance with this section with any public or private nonprofit agency, institution, or organization which has an established program for the training or retraining of personnel in the allied health professions specified by the Secretary.

(2) Each agreement entered into under this subsection shall—

(A) provide for establishment of a student loan fund by such agency, institution, or organization for students or trainees enrolled in such program;

(B) provide for deposit in the fund of (i) the Federal capital contributions paid under this section to the agency, institution, or organization by the Secretary, (ii) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (iii) collections of principal and interest on loans made from the fund, (iv) collections pursuant to subsection (b)(6), and (v) any other earnings of the fund;

(C) provide that the fund shall be used only for loans to students or trainees enrolled in such program of the agency, institution, or organization in accordance with the agreement and for costs of collection of such loans and interest thereon;

(D) provide that loans may be made from such fund to students pursuing a course of study (whether full time or part time) in such program of such agency, institution, or organization and that while the agreement remains in effect no such student who is attending such program of such agency, institution, or organization shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958 or pursuant to part B of the title IV of the Higher Education Act of 1965; and

(E) contain such other provisions as are necessary to protect the financial interests of the United States.

(b)(1) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by agencies, institutions, or organizations from loan funds established pursuant to agreements under this section may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 in the case of any student.

(2) Loans from any such student loan fund by any agency, institution, or organization shall be made on such terms and conditions as it may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the agency, institution, or organization) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(A) such loan may be made only to a student who (i) is in need of the amount of the loan to pursue a part-time or full-time course of study at the agency,

institution, or organization, and (ii) is capable, in the opinion of the agency, institution, or organization, of maintaining good standing in such course of study;

(B) such loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a part-time or full-time course of study in a program for the training or retraining of personnel in the allied health professions at an agency, institution, or organization approved by the Secretary, excluding from such ten-year period all (i) periods (up to three years) of (I) active duty performed by the borrower as a member of a uniformed service, or (II) service as a volunteer under the Peace Corps Act, and (ii) periods (up to five years) during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate or associate degree or the equivalent of either or to a higher degree in one of the allied health professions;

75 Stat. 612
22 U.S.C. 2501 note

(C) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment in any of the allied health professions (including teaching any such profession or service as an administrator, supervisor, or specialist in any such profession) in any public or private nonprofit agency, institution, or organization, or in a rural area with an individual practitioner of medicine or dentistry if such service is approved by a local county health department or its equivalent at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service in such a profession in a public or other nonprofit hospital, other health service facility or health agency which is determined, in accordance with regulations of the Secretary, to have a substantial shortage of persons rendering service in such profession, and for purposes of any cancellation at such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled;

(D) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(E) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods dur-

ing which the loan is repayable at the rate of 3 per centum per annum;

(F) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required; and

(G) no note or other evidence of any such loan may be transferred or assigned by the agency, institution, or organization making the loan except that, if the borrower transfers to another agency, institution, or organization participating in the program under this section, such note or other evidence of a loan may be transferred to such other agency, institution, or organization.

(3) When all or any part of a loan, or interest, is canceled under this subsection, the Secretary shall pay to the agency, institution, or organization an amount equal to its proportionate share of the canceled portion, as determined by the Secretary.

(4) Any loan for any year by an agency, institution, or organization from a student loan fund established pursuant to an agreement under this section shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the agency, institution, or organization that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(5) An agreement under this section with any agency, institution, or organization shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the agency, institution, or organization in need thereof.

(6) Subject to regulations of the Secretary, an agency, institution, or organization may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this section for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under paragraph (2)(B) or cancellation of part or all of the loan under paragraph (2)(C), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The agency, institution, or organization may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount

of the charge payable to the agency, institution, or organization not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(7) An agency, institution, or organization may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this section payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a) (2) (B) (i) $3,500,000 for the fiscal year ending June 30, 1971, $5,000,000 for the fiscal year ending June 30, 1972, and $10,000,000 for the fiscal year ending June 30, 1973, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1974, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan from any academic year ending before July 1, 1973, to continue or complete their education. Sums appropriated pursuant to this subsection for any fiscal year shall be available to the Secretary (1) for payments into the funds established by subsection (f) (4), and (2) in accordance with agreements under this section, for Federal capital contributions to schools with which such agreements have been made, to be used together with deposits in such funds pursuant to subsection (a) (2) (B) (ii), for establishment and maintenance of student loan funds.

(d) (1) From the sums appropriated pursuant to subsection (c) for any fiscal year, the Secretary shall allot to each agency, institution, or organization, which has an established program or programs for the training or retraining of personnel in the allied health professions approved by the Secretary, an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such program or programs in such agency, institution, or organization approved by the Secretary bears to the total number of persons enrolled on a full-time basis in such programs in all such agencies, institutions, or organizations in all the States. The number of persons enrolled, in such a program, on a full-time basis in such agencies, institutions, or organizations for purposes of the subsection shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. Funds available in any fiscal year for payment to agencies, institutions, or organizations under this section (whether as Federal capital contributions or as loans under subsection (f)) which are in excess of the amount

appropriated pursuant to subsection (c) for that year shall be allotted among agencies, institutions, or organizations approved by the Secretary in such manner as the Secretary determines will best carry out the purposes of this section.

(2) The Secretary shall from time to time set dates by which agencies, institutions, or organizations must file applications for Federal capital contributions and for loans pursuant to subsection (f).

(3) The Federal capital contributions to a loan fund of an agency, institution, or organization approved by the Secretary under this section shall be paid from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in its loan fund.

(e)(1) After June 30, 1977, and not later than September 30, 1977, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to subsection (a)(2) by each agency, institution or organization approved by the Secretary as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1977, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to subsection (a)(2)(B)(i) bears to the total amount in such fund derived from such Federal capital contributions from funds deposited therein pursuant to subsection (a)(2)(B)(ii).

(B) The remainder of such balance shall be paid to the agency, institution, or organization approved by the Secretary.

(2) After September 30, 1977, each agency, institution, or organization approved by the Secretary with which the Secretary has made an agreement under this section shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by it after June 30, 1977, in payment of principal and interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by subsection (f)(4)) as was determined for the Secretary under paragraph (1).

(f)(1)(A) During the fiscal year ending June 30, 1971, and each of the next two fiscal years, the Secretary may make loans, from the revolving fund established by paragraph (4), to any public or private nonprofit agency, institution, or organization approved by him, to provide all or part of the capital needed by any such agency, institution, or organization for making loans to students under this subsection (other than capital needed to make the institutional contributions required of agencies, insti-

tutions, or organizations by subsection (a) (2) (B) (ii)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in subsection (b). The requirement in subsection (a) (2) (B) (ii) with respect to institutional contributions by agencies, institutions, or organizations to student loan funds shall not apply to loans made to agencies, institutions, or organizations under this subsection.

(B) A loan to an agency, institution, or organization approved by the Secretary under this subsection may be made upon such terms and conditions, consistent with applicable provisions of subsection (a), as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this subsection will be achieved, these terms and conditions may include provisions making the obligation of the agency, institution, or organization to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (i) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this subsection, and (ii) probable losses.

(2) If an agency, institution, or organization approved by the Secretary borrows any sums under this subsection, the Secretary shall agree to pay to it (A) an amount equal to 90 per centum of the loss to it from defaults on student loans made from such sums, (B) the amount by which the interest payable by it on such sums exceeds the interest received by it on student loans made from such sums, (C) an amount equal to the amount of collection expenses authorized by subsection (a) (2) (C) to be paid out of a student loan fund with respect to such sums, and (D) the amount of the principal which is canceled pursuant to subsection (b) (2) (C) or (D) with respect to student loans made from such sums. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this paragraph.

(3) The total of the loans made in any fiscal year under this subsection shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $35,000,000 and the amount of Federal capital contributions paid under this section for that year.

(4) (A) There is hereby created within the Treasury an allied professions training fund (hereinafter in this paragraph referred to as the "fund") which shall be available to the Secretary without fiscal year limitation as

a revolving fund for the purposes of this subsection. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly owned Government corporations.

(B) The fund shall consist of appropriations paid into the fund pursuant to subsection (c), appropriations made pursuant to this paragraph, all amounts received by the Secretary as interest payments or repayments of principal on loans under this subsection, and any other moneys, property, or assets derived by him from his operations in connection with this subsection (other than paragraph (2)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interest or participations in assets, of the fund.

(C) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this subsection (other than paragraph (s)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participation in obligations acquired under this subsection. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this subsection, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonable prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(g) The Secretary may agree to modifications of agreements or loans made under this section, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this section.

DEFINITIONS

SEC. 795.[68] For purposes of this part—

(1) The term "training center for allied health professions" means a junior college, college, or university—

[68] Sec. 795 amended by sec. 12(e) of P.L. 90–174 and sec. 202(c) of P.L. 91–519.

(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree or to the equivalent of either or to a higher degree in the medical technology, optometric technology, dental hygiene, or any of such other of the allied health professions curriculums as are specified by regulations, or which, if in a junior college provides a program (i) leading to an associate or an equivalent degree, (ii) of education in optometric technology, dental hygiene, or curriculums as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Surgeon General,

(B) which provides training for not less than a total of twenty persons in such curriculums,

(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital,

(D) which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Surgeon General that reasonable progress is being made toward accreditation by such junior college, and

77 Stat. 169
42 U.S.C. 293d

(E) in the case of an applicant for a grant under section 793, which, if the college or university does not include a school of medicine, a school of osteopathy, school of optometry, or school of dentistry, as defined in paragraph (4) of section 724, as may be appropriate in the light of the training for which the grant is to be made, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a school,

except that an applicant for a grant for a construction project under section 791 which does not at the time of application meet the requirement of clause (B) shall be deemed to meet such requirement if the Surgeon General finds there is reasonable assurance that the unit will meet the requirement of clause (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit, or, if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

(2) The term "full-time student" means a student pursuing a full-time course of study, in one of the curriculums specified in or pursuant to paragraph (1)(A) of this section, leading to a baccalaureate or associate degree or to the equivalent of either, or to a higher degree, in a training center for allied health professions; regulations of the Surgeon General shall include provisions relating to determination of the number of students enrolled at a training center on the basis of estimates, or on the basis of the number of students enrolled in a training center in an earlier year, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determinations when a training center was not in existence in an earlier year.

(3) The term "nonprofit", as applied to any training center for allied health professions or to any private agency, organization, or institution, means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(5) The term "affiliated hospital" means a hospital, as defined in section 645, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, one or more training centers for allied health professions.

78 Stat. 460
42 U.S.C. 291o

RECORDS AND AUDITS

SEC. 796. (a) Each recipient of a grant under this part shall keep such records as the Surgeon General may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any

books, documents, papers, and records of the recipient of any grant under this part which are pertinent to any such grant.

EVALUATION

SEC. 797.[69] * * *

STUDY

SEC. 798.[70] (a) The Secretary shall conduct a study of the administration of—

(1) the provisions of this part,

(2) other provisions of this Act which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions; and

(3) provisions of law which are administered by the Commissioner of Education and which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions ;

with a view to determining the adequacy of such provisions and the programs established pursuant thereto to meet the needs of the Nation for allied health professions personnel.

ADVANCE FUNDING

SEC. 799.[71] Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this part may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated.

LICENSURE REPORT

SEC. 799A. The Secretary shall prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel (including group practice of health personnel), together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation. Such report shall include specific recommendations by the Secretary for steps to be taken toward the solution of the problems so identified in such report.

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[69] Sec. 797 repealed by sec. 401(b)(1)(E) of P.L. 91–296.
[70] Sec. 798 amended by sec. 205 of P.L. 91–519.
[71] Secs. 799 and 799A added by secs. 206 and 207, respectively, of P.L. 91–519.

# TITLE VIII—NURSE TRAINING[1]

## PART A—GRANTS FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

### AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION GRANTS

SEC. 801. (a)[2] There are authorized to be appropriated, for grants to assist in the construction of new facilities for collegiate, associate degree, or diploma schools of nursing, or replacement or rehabilitation of existing facilities for such schools, $25,000,000 for the fiscal year ending June 30, 1970, and $35,000,000 for the fiscal year ending June 30, 1971.

(b) Sums appropriated pursuant to subsection (a) for a fiscal year shall remain available for obligation through the close of the next fiscal year.

### APPROVAL OF APPLICATIONS FOR CONSTRUCTION GRANTS

SEC. 802. (a)[3] No application for a grant for a construction project under this part may be approved unless it is submitted to the Surgeon General prior to July 1, 1970.

(b) A grant for a construction project under this part may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(1) the applicant is a public or nonprofit private school of nursing providing an accredited program of nursing education;

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for a grant for construction to expand

[1] Title VIII added by sec. 2 of P.L. 88–581.
[2] Sec. 801 amended by sec. 201(a) of P.L. 90–490.
[3] Sec. 802(a) amended by changing date from July 1, 1968 to July 1, 1970 by sec. 201(b) of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

the training capacity of a school of nursing, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the nine years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater;

(3) (A) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new school of nursing, or construction which will expand the training capacity of an existing school of nursing, or (B) in the case of an application for a grant for replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of an existing school of nursing which are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(5) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

Before approving or disapproving an application for a construction project under this part, the Surgeon General shall secure the advice of the National Advisory Council on Nurse Training established by section 841 (hereinafter in this part referred to as the "Council").

(c) In considering applications for grants, the Council and the Surgeon General shall take into account—

(1) (A) in the case of a project for a new school or the expansion of the facilities of an existing school, the relative effectiveness of the proposed facilities in expanding the capacity for the training of first-year students of nursing in the field involved and in promoting an equitable geographical distribu-

tion of opportunities for such training (giving due consideration to population, relative unavailability of nurses of the kind to be trained by such school, and available resources in various areas of the Nation for training such nurses); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the field of nursing involved (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State or local area agency involved with planning for nurse training facilities, or which participates in a regional or other interstate agency involved with planning for nurse training facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

AMOUNT OF CONSTRUCTION GRANT; PAYMENTS

SEC. 803. (a)[4] The amount of any grant for a construction project under this part shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council; except that (A) in the case of a grant for a project for a new school, and in the case of a grant for a project for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, such amount may not exceed 66⅔ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not, except where the Secretary determines that unusual circumstances make a larger percentage (which may in no case exceed 66⅔ per centum) necessary in order to effectuate the purposes of this part, exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(b) Upon approval of any application for a grant for a construction project under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under

[4] Sec. 803(a) amended by sec. 202 of P.L. 90–490.

subsection (a); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any such grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

RECAPTURE OF PAYMENTS

SEC. 804. If, within twenty years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit private school, or

(b) the facility shall cease to be used for the training purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(c) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

IMPROVEMENT IN NURSE TRAINING

SEC. 805.[5] (a) From the sums available therefor from appropriations under section 808 for the fiscal year ending June 30, 1970, and the next fiscal year, grants may be made to assist any public or nonprofit private agency, organization, or institution to meet the cost of special projects to plan, develop, or establish new programs or modifications of existing programs of nursing education

[5] Secs. 805 and 806 completely revised by sec. 211 of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

or to effect significant improvements in curriculums of schools of nursing or for research in the various fields of nursing education, or to assist schools of nursing which are in serious financial straits to meet their costs of operation or to assist schools of nursing which have special need for financial assistance to meet accreditation requirements, or to assist in otherwise strengthening, improving, or expanding programs of nursing education, or to assist any such agency, organization, or institution to meet the costs of other special projects which will help to increase the supply of adequately trained nursing personnel needed to meet the health needs of the Nation.

(b) In determining priority of projects for which applications are filed under subsection (a), the Secretary shall give priority in the following order:

(1) the relative need of the applicant (if a school of nursing) for financial assistance to continue in operation or avoid curtailing enrollment or reduction in the quality of training provided;

(2) the special need of the applicant for financial assistance in connection with its merger with a school of nursing;

(3) the relative need of the applicant for financial assistance to maintain or provide for accreditation as a school of nursing; and

(4) the extent to which the project will increase enrollment of full-time students receiving nursing training.

INSTITUTIONAL GRANTS

SEC. 806.[5] (a) The sums available for grants under this section from appropriations under section 808 for the fiscal year ending June 30, 1970, and the next fiscal year shall be distributed to the schools with approved applications as follows: Each school shall receive $15,000; and of the remainder—

(A) 75 per centum shall be distributed on the basis of—

(i) the relative enrollment of full-time students for such year, and

(ii) the relative increase in enrollment of such students for such year over the average enrollment of such school for the five school years preceding the year for which the application is made;

with the amount per full-time student so computed that a school receives twice as much for each such student in the increase as for other full-time students, and

(B) 25 per centum shall be distributed on the basis of the relative number of graduates for such year.

In computing the increase under clause (A)(ii) of the preceding sentence for any school, there shall be excluded

a number equal to the increase required by subsection (b) (except in the case of a school to which the third sentence of such subsection applies).

(b) The Secretary shall not make a grant under this section to any school from any appropriation for a fiscal year ending after June 30, 1970, unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the first-year enrollment of full-time students in such school will exceed the average of the first-year enrollment of such students in such school for the two school years having the highest such enrollment during the five school years during the period of July 1, 1963, through June 30, 1968, by at least 2½ per centum of such average first-year enrollment, or by five students, whichever is greater. The requirements of this subsection shall be in addition to the requirements of section 802(b)(2)(D) of this Act, where applicable. The Secretary is authorized to waive (in whole or in part) the provisions of this subsection if he determines, after consultation with the National Advisory Council on Nurse Training, that the required increase in first-year enrollment of full-time students in a school cannot, because of limitations of physical facilities available to the school for training, be accomplished without lowering the quality of training provided therein.

(c)(1) For the purposes of this part and part D, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates from a school, as the case may be, on the basis of estimates, or on the basis of the number of students who were enrolled in a school, or in particular year-class in a school, or were graduates from a school in earlier years, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part D, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study in an accredited program in a school of nursing.

APPLICATIONS FOR GRANTS

SEC. 807.[6] (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applica-

[6] Secs. 807 and 808 added by sec. 212 of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

tions under section 805 or 806 for any fiscal year must be filed.

(b) The Secretary shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Nurse Training.

(c) A grant under section 805 or 806 may be made only if the application therefor—

(1) is from a public or nonprofit private school of nursing, or, in the case of grants under section 805, a public or nonprofit private agency, organization, or institution;

(2) contains or is supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(3) contains such additional information as the Secretary may require to make the determinations required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

(4) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 808.[6] (a) There are authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1970, and $40,000,000 for the fiscal year ending June 30, 1971, for improvement grants under section 805 and institutional grants under section 806.

(b) Of the sums appropriated under subsection (a) of this section $15,000,000 shall be available for each of the fiscal years ending June 30, 1970, and June 30, 1971, for grants under section 805.

## PART B—ASSISTANCE TO NURSING STUDENTS

TRAINEESHIPS FOR ADVANCED TRAINING OF PROFESSIONAL NURSES

SEC. 821. (a) [7] There are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1965, $9,000,-

[7] Sec. 821(a) amended by sec. 221 of P.L. 90–490.

000 for the fiscal year ending June 30, 1966, $10,000,000 for the fiscal year ending June 3, 1967, $11,000,000 for the fiscal year ending June 30, 1968, $12,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, and $19,000,000 for the fiscal year ending June 30, 1971, to cover the cost of traineeships for the training of professional nurses to teach in the various fields of nurse training (including practical nurse training), to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties determined by the Surgeon General to require advanced training.

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or nonprofit private institutions providing the training.

(c) Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

LOAN AGREEMENTS

42 U.S.C. 297a

SEC. 822. (a) The Secretary of Health, Education, and Welfare is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this part with any public or nonprofit private school of nursing which is located in a State.

(b)[8] Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 829, of (A) the Federal capital contributions paid under this part to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 823(f), and (E) any other earnings of the fund;

(3) provide that the fund, except as provided in section 829, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

[8] Sec. 822(b) amended by sec. 222(a) and subsec. 222(c)(2) of P.L. 90–490; effective for loans made after June 30, 1969.

(4) provide that loans may be made from such fund only to students pursuing a full-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing, and that while the agreement remains in effect no such student who has attended such school before July 1, 1971, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

LOAN PROVISIONS

SEC. 823.[9] (a) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this part may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 in the case of any student. In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after enactment of this title.

(b) Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary of Health, Education, and Welfare may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of study;

(2) [10] such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-

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[9] Sec. 823(a) amended by subsec. 222(b)(1) of P.L. 90–490, by increasing maximum loan from $1,000 to $1,500, and by limiting aggregate loans to $6,000, and by giving preference to licensed practical nurses.

[10] Subsec. 823(b)(2) amended by subsec. 222(b)(2) of P.L. 90–490, by changing beginning of repayment period from one year to nine months and by substituting a new "excluding" clause.

These two amendments shall apply with respect to all loans made after June 30, 1969, and with respect to loans made from a student loan fund established under an agreement pursuant to sec. 822, before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but then only for years beginning after June 30, 1968).

year period which begins nine months after the student ceases to pursue a full-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act, and (B) periods (up to five years) during which the borrower is pursuing a full-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing;

(3)[11] not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private institution or agency, at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service as such a nurse in a public or other nonprofit hospital in any area which is determined, in accordance with regulations of the Secretary, to be an area which has a substantial shortage of such nurses at such hospitals, and for the purpose of any cancellation at such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(5)[12] such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

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[11] Subsec. 823(b)(3) amended by addition of "except" clause by subsec. 222(b)(3) of P.L. 90–490. This amendment applies with respect to service specified in sec. 823(b)(3) performed during academic years beginning after Aug. 16, 1968, whether the loan was made before or after Aug. 16, 1968.

[12] Subsec. 823(b)(5) amended by sec. 222(b)(4) of P.L. 90–490 by deletion of several clauses. This amendment applies to all loans made after June 30, 1969.

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

(c) Where all or any part of a loan, or interest, is canceled under this section, the Secretary of Health, Education, and Welfare shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Any loan for any year by a school from a student loan fund established pursuant to an agreement under this part shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the School that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) An agreement under this part with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f)[13] Subject to regulations of the Secretary, a school may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this part for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b) (2) or cancellation of part or all of the loan under subsection (b) (3), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g)[13] A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this part payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

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[13] Secs. 823 (f) and (g) added by subsec. 222(c)(1) of P.L. 90–490, effective for loans made after June 30, 1969.

### Authorization of Appropriations for Loans

42 U.S.C. 297c

SEC. 824.[14] There are authorized to be appropriated to the Secretary of Health Education, and Welfare for Federal capital contributions to student loan funds pursuant to section 822(b)(2)(A) $3,100,000 for the fiscal year ending June 30, 1965, $8,900,000 for the fiscal year ending June 30, 1966, $16,800,000 for the fiscal year ending June 30, 1967, $25,300,000 for the fiscal year ending June 30, 1968, $30,900,000 for the fiscal year ending June 30, 1969, $20,000,000 for the fiscal year ending June 30, 1970, and $21,000,000 for the fiscal year ending June 30, 1971, and such sums for the fiscal year ending June 30, 1972, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1971, to continue or complete their education. Sums appropriated pursuant to this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 827(d), and (2) in accordance with agreements under this part, for Federal capital contributions to schools with which such agreements have been made, to be used, together with deposits in such funds pursuant to section 822(b)(2)(B), for establishment and maintenance of student loan funds, and (3) for transfers pursuant to section 829.

### Allotments and Payments of Federal Capital Contributions

SEC. 825. (a)[15] From the sums appropriated pursuant to section 824 for any fiscal year, the Secretary shall allot to each school an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such school bears to the total number of persons enrolled on a full-time basis in all schools of nursing in all the States. The number of persons enrolled on a full-time basis in schools of nursing for purposes of this section shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. For purposes of allotments under this section, a school of nursing also includes any school with which the Secretary has, prior to the time the allotment is made, entered into an agreement for establishment of a student loan fund under this part. Funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 827) which are in excess of the amount appropriated pursuant to section 824 for that year shall be allotted among States and among schools within States in such manner as the Secre-

[14] Sec. 824 amended by sec. 222(d) of P.L. 90–490.
[15] Sec. 825(a) amended by sec. 222(e) of P.L. 90–490.

tary determines will best carry out the purposes of this part.

(b)(1)[16] The Secretary shall from time to time set dates by which schools of nursing in a State must file applications for Federal capital contributions, and for loans pursuant to section 827, from the allotment of such State under the first two sentences of subsection (a) of this section.

(2) If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State exceeds the amount of the allotment of such State for that fiscal year, the amounts to be paid to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amount of the allotment of such State as the number of students who will be enrolled full time in such school during such fiscal year bears to the total number of students who will be enrolled full time in all such schools in such State during such year. Amounts remaining after allotment under the preceding sentence shall be redistributed in accordance with clause (B) of such sentence among schools which in their applications requested more than the amounts so paid to their loan funds, but with such adjustments as may be necessary to prevent the total paid to any such school's loan fund from exceeding the total so requested by it. If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State is less than the amount of the allotment of such State for that fiscal year, the Secretary may reallot the remaining amount from time to time, on such date or dates as he may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year. For the purpose of this section, the number of students who graduated from secondary schools in each State during a fiscal year and the number of students who will be enrolled full time in schools of nursing in each State shall be estimated by the Secretary of Health, Education, and Welfare on the basis of the best information available to him; and in making such estimates, the number of students enrolled full time in any collegiate school of nursing shall be deemed to be twice their actual number.

(c) The Federal capital contributions to a loan fund of a school under this part shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

### Distribution of Assets From Loan Funds

SEC. 826. (a)[17] After June 30, 1974, and not later than September 30, 1974, there shall be a capital distribution 42 U.S.C. 297e

[16] Subsec. 825(b)(1) amended by subsec. 6(c)(2) of P.L. 89–751.
[17] Sec. 826 amended by sec. 222(f) of P.L. 90–490.

of the balance of the loan fund established under an agreement pursuant to section 822(b) by each school as follows:

(1) The Secretary of Health, Education, and Welfare shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1974, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 822(b)(2)(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 822(b)(2)(B).

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1974, each school with which the Secretary has made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1974, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 827(d)) as was determined for the Secretary under subsection (a).

## Loans to Schools

42 U.S.C. 297f

SEC. 827.[18] (a)(1) During the fiscal years ending June 30, 1967, and June 30, 1968, and each of the next three fiscal years, the Secretary may make loans, from the revolving fund established by subsection (d), to any public or nonprofit private school of nursing which is located in a State, to provide all or part of the capital needed by any such school for making loans to students

42 U.S.C. 297a

under this section (other than capital needed to make the institutional contributions required of schools by section 822(b)(2)(B)). Loans to students from such borrowed sums shall be subject to the terms, conditions,

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and limitations set forth in section 823. The requirement in section 822(b)(2)(B) with respect to institutional contributions by schools to student loan funds shall not apply to loans made to schools under this section.

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[18] Sec. 827 amended by:

(a) Sec. 6(a) of P.L. 89–751.

(b) Sec. 6(e)(1) of P.L. 89–751, to "* * * be effective in the case of payments to student loan funds made after the enactment of this Act, except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 827 of the Public Health Service Act as in effect prior to the enactment of this Act."

(c) Sec. 6(e)(2) of P.L. 89–751, to authorize the Secretary of Health, Education, and Welfare, "* * * at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 822(b)(2)(A) of the Public Health Service Act) to a student loan fund of such institution, made under title VIII of the Public Health Service Act from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 827 of such Act as amended by this Act."

(d) Sec. 222(a) of P.L. 90–490.

(2) A loan to a school under this section may be upon such terms and conditions, consistent with applicable provisions of section 822, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this section will be achieved, these terms and conditions may include provisions making the school's obligation to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (A) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, and (B) probable losses.

Payments to Schools To Cover Certain Costs Incurred in Making Student Loans From Borrowed Funds

(b) If a school of nursing borrows any sums under this section, the Secretary shall agree to pay to the school (1) an amount equal to 90 per centum of the loss to the school from defaults on student loans made from such sums, (2) the amount by which the interest payable by the school on such sums exceeds the interest received by it on student loans made from such sums, (3) an amount equal to the amount of collection expenses authorized by section 822(b)(3) to be paid out of a student loan fund with respect to such sums and (4) the amount of principal which is canceled pursuant to section 823(b)(3) or (4) with respect to student loans made from such sums. There are authorized to be appropriated without fiscal-year limitation such sums as may be necessary to carry out the purposes of this subsection.

Limitation on Loans

(c) The total of the loans made in any fiscal year under this section shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $35,000,000 and the amount of Federal capital contributions paid under this title for that year.

Revolving Fund

(d)(1) There is hereby created within the Treasury a nurse training fund (hereinafter in this section called "the fund") which shall be available to the Secretary without fiscal-year limitation as a revolving fund for the purposes of this section. A business-type budget for the

fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly owned Government corporations.

(2) The fund shall consist of appropriations paid into the fund pursuant to section 824, appropriations made pursuant to this subsection, all amounts received by the Secretary as interest payments or repayments of principal on loans under this section, and any other moneys, property, or assets derived by him from his operations in connection with this section (other than subsection (b)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund.

(3) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this section (other than subsection (b)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this section. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this section, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(4) In addition to the sums authorized to be appropriated by section 824, there are authorized to be appropriated to the fund established by this subsection $2,000,000 for the fiscal year ending June 30, 1967.

ADMINISTRATIVE PROVISIONS

42 U.S.C. 297g

SEC. 828. The Secretary may agree to modifications of agreements or loans made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part.

TRANSFERS TO SCHOLARSHIP PROGRAM

SEC. 829.[19] Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under part D to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 822(b)(2)(B) with respect to the amount so transferred may be withdrawn by the school from such fund.

## PART C—GENERAL

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING; REVIEW COMMITTEE

SEC. 841.[20] (a)(1) There is hereby established a National Advisory Council on Nurse Training, consisting of the Surgeon General, who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and sixteen members appointed by the Secretary without regard to the civil service laws. Four of the appointed members shall be selected from the general public and twelve shall be selected from among leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services. 42 U.S.C. 298

(2) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this title, and in the review of applications for construction projects under part A of applications under section 805.

(b) The Secretary of Health, Education, and Welfare shall, prior to July 1, 1967, and without regard to the civil service laws, appoint a committee, consisting of members of the public, of various groups particularly interested in or expert in matters relating to education of various types of nurses, for the purpose of reviewing the programs authorized by this title and making recommendations with respect to continuation, extension, and modification of any of such programs. A report of the findings and recommendations of such committee shall be submitted to the Secretary not later than

[19] Sec. 829 added by sec. 222(h) of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

[20] Sec. 222 of P.L. 90–490 provides that the Secretary shall, in consultation with the Advisory Council established by sec. 841, prepare, and submit to the President and the Congress prior to July 1, 1970, a report on the administration of title VIII of the Public Health Service Act, an appraisal of the programs under such title in the light of their adequacy to meet the long-term needs for nurses, and his recommendations as a result thereof.

November 1, 1967, after which date such committee shall cease to exist. The Secretary shall submit such report, together with his comments and recommendations thereon to the Congress on or before January 1, 1968.

(c)[21] * * *

NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

SEC. 842. Nothing contained in this title shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

DEFINITIONS

42 U.S.C. 298b

SEC. 843. For purposes of this title—

(a)[22] the term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(b) the term "school of nursing" means a collegiate, associate degree, or diploma school of nursing.

(c)[23] the term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

(d)[24] the term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

(e)[25] the term "diploma school of nursing" means a school affiliated with a hospital or university, or an

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[21] Sec. 841(c) deleted by sec. 601(b)(2) of P.L. 91–515.
[22] Sec. 843(a) amended by sec. 203 of P.L. 90–490.
[23] Sec. 843(c) amended by: (a) Sec. 204 of P.L. 90–490 by adding clause after "degree in nursing," effective with respect to appropriations for fiscal years after June 30, 1969; and (b) secs. 231 (a) and (c) of P.L. 90–490.
[24] Sec. 843(d) amended by sec. 231(d) of P.L. 90–490.
[25] Sec. 843(e) amended by secs. 231(a) and 231(e) of P.L. 90–490.

independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

(f)[26] the term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education, except that a program, or a hospital, school, college, or university (or unit thereof), which is not, at the time of the application under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title in the following cases if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program, or the hospital, school, college, or university (or unit thereof), will meet the accreditation standards of such body or bodies (1) in the case of an applicant under part A for a grant for a project for construction of a new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (A) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (B) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school; (2) in the case of a school applying for a grant under section 806 for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one); and (3) in the case of a school seeking an agreement under part B for establishment of a student loan fund, prior to the beginning of the academic year following the normal graduation date of students who are in their first year of in-

[26] Sec. 843(f) amended by secs. 231 (f) and (g) of P.L. 90–490. Subsec. 843(f) (2) amended by sec. 213 of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

struction at such school during the fiscal year in which the agreement with such school is made under part B; except that the provisions of this clause (3) shall not apply for purposes of section 825.

For the purpose of this paragraph, the Commissioner of Education shall publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to the quality of training offered.

(g) The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a school which provides secondary education, as determined under State law except that it does not include any education provided beyond grade 12.

(i) The terms "construction" and "cost of construction" include (1) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (2) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered.

## PART D [27]—SCHOLARSHIP GRANTS TO SCHOOLS OF NURSING

### SCHOLARSHIP GRANTS

SEC. 860.[28] (a) The Secretary shall make grants as provided in this part to each public or other nonprofit school of nursing for scholarships to be awarded annually by such school to students thereof.

(b) The amount of the grant under subsection (a) for the fiscal year ending June 30, 1970, and the next fiscal year to each such school shall be equal to $2,000 multiplied by one-tenth of the number of full-time students of such school. For the fiscal year ending June 30, 1972, and for each of the three succeeding fiscal years, the grant under subsection (a) shall be such amount as may be necessary to enable such school to continue making payments

[27] Pt. D added by sec. 8(b) of P.L. 89–751. Secs. 862–867 deleted by sec. 223(a) of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

[28] Sec. 860 added by sec. 223(a) of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending prior to July 1, 1971.

(c) (1) Scholarships may be awarded by schools from grants under subsection (a)—

(A) only to individuals who have been accepted by them for enrollment, and individuals enrolled and in good standing, as full-time students, in the case of awards from such grants for the fiscal year ending June 30, 1970, and the next fiscal year; and

(B) only to individuals enrolled and in good standing as full-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to July 1, 1971, in the case of awards from such grants for the fiscal year ending June 30, 1972, and each of the three succeeding fiscal years.

(2) Scholarships from grants under subsection (a) for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $1,500 for any year in the case of any student, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Grants under subsection (a) shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council on Nurse Training.

(e) Grants under subsection (a) may be paid in advance or by way of reimbursement, and at such intervals as the Secretary may find necessary; and with appropriate adjustments on account of overpayments or underpayments previously made.

TRANSFERS TO STUDENT LOAN PROGRAM

SEC. 861.[29] Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for scholarships under this part, or such larger percentage thereof as the Secretary may approve for such school for such year, may be transferred to the sums available to the school under this part for (and to be regarded as) Federal capital contributions, to be used for the same purpose as such sums.

[29] Sec. 861 amended by sec. 223(a) of P.L. 90–490, effective with respect to appropriations for fiscal years after June 30, 1969.

CONTRACTS TO ENCOURAGE FULL UTILIZATION OF NURSING EDUCATIONAL TALENT

SEC. 868. (a) To assist in achieving the purposes of this part the Secretary is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)) to enter into contracts, not to exceed $100,000 per year, with State and local educational agencies and other public or nonprofit organizations and institutions for the purpose of—

(1) identifying qualified youths of exceptional financial need and encouraging them to complete secondary school and undertake post-secondary educational training in the field of nursing, or

(2) publicizing existing forms of financial aid for nursing students, including aid furnished under this part.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

DEFINITION OF ACADEMIC YEAR

SEC. 869. As used in this part, the term "academic year" means an academic year or its equivalent as defined in regulations of the Secretary.

# TITLE IX—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN THE FIELDS OF HEART DISEASE, CANCER, STROKE, KIDNEY DISEASE, AND OTHER RELATED DISEASES [1, 2]

## PURPOSES

SEC. 900.[3] The purposes of this title are— 42 U.S.C. 299

(a) through grants and contracts, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education), for medical data exchange, and for demonstrations of patient care in the fields of heart disease, cancer, stroke, and kidney disease, and other related diseases;

(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the prevention, diagnosis, and treatment and rehabilitation of persons suffering from these diseases;

(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and

(d) by these means, to improve generally the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies.

## AUTHORIZATIONS OF APPROPRIATIONS

SEC. 901. (a)[3] There are authorized to be appropriated 42 U.S.C. 299a(a)
$50,000,000 for the fiscal year ending June 30, 1966, $90,-

[1] Title IX added by sec. 2 of P.L. 89–239.
[2] The heading of title IX was amended by sec. 111(a) of P.L. 91–515.
[3] Sec. 900 was amended by sec. 102 of P.L. 91–515. Sec. 901(a) was amended by sec. 401(b)(1)(F) of P.L. 91–296, and further amended by sec. 103(a)(1), (2), and (3) of P.L. 91–515.

000,000 for the fiscal year ending June 30, 1967, $200,000,000 for the fiscal year ending June 30, 1968, $65,000,000 for the fiscal year ending June 30, 1969, $120,000,000 for the next fiscal year, $125,000,000 for the fiscal year ending June 30, 1971, $150,000,000 for the fiscal year ending June 30, 1972, and $250,000,000 for the fiscal year ending June 30, 1973 for grants to assist public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private institutions and agencies in planning, in conducting feasibility studies, and in operating pilot projects for the establishment, of regional medical programs of research, training, and demonstration activities for carrying out the purposes of this title and for contracts to carry out the purposes of this title. Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease. Of the sums appropriated under this section for any fiscal year ending after June 30, 1970, not more than $5,000,000 may be made available in any such fiscal year for grants for new construction.

(b) A grant under this title shall be for part or all of the cost of the planning or other activities with respect to which the application is made, except that any such grant with respect to construction of, or provision of built-in (as determined in accordance with regulations) equipment for, any facility may not exceed 90 per centum of the cost of such construction or equipment.

(c)[4] Funds appropriated pursuant to this title shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent it is, as determined in accordance with regulations, incident to those research, training, or demonstration activities which are encompassed by the purposes of this title. No patient shall be furnished hospital, medical, or other care at any facility incident to research, training, or demonstration activities carried out with funds appropriated pursuant to this title, unless he has been referred to such facility by a practicing physician or, where appropriate, a practicing dentist.

(d)[5] Grants under this title to any agency or institution, or combination thereof, for a regional medical program may be used by it to assist in meeting the cost of participation in such program by any Federal hospital.

42 U.S.C. 299a(e)

(e)[6] At the request of any recipient of a grant under this title, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished by the Secretary to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection with the detail of an officer or employee of the Government to the recipient

[4] Sec. 901(c) amended by sec. 107(a) of P.L. 90–574.
[5] Sec. 901(d) added by sec. 107(b) of P.L. 90–574.
[6] Subsec. 901(e) added by subsec. 103(b) of P.L. 91–515.

when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the regional medical program to which the grant under this title is made.

DEFINITIONS

SEC. 902. For the purpose of this title— 42 U.S.C. 299b(a)

(a)[7] the term "regional medical program" means a cooperative arrangement among a group of public or nonprofit private institutions or agencies engaged in research, training, prevention, diagnosis, treatment, and rehabilitation relating to heart disease, cancer, stroke, or kidney disease and, at the option of the applicant, other related diseases but only if such group—

(1) is situated within a geographic area, composed of any part or parts of any one or more States (which for purposes of this title includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands), which the Secretary determines, in accordance with regulations, to be appropriate for carrying out the purposes of this title;

(2) consists of one or more medical centers, one or more clinical research centers, and one or more hospitals; and

(3) has in effect cooperative arrangements among its component units which the Secretary finds will be adequate for effectively carrying out the purposes of this title.

(b) the term "medical center" means a medical school or other medical institution involved in postgraduate medical training and one or more hospitals affiliated therewith for teaching, research, and demonstration purposes.

(c) the term "clinical research center" means an institution (or part of an institution) the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high-quality diagnostic and treatment services for inpatients and outpatients.

(d) the term "hospital" means a hospital as defined in section 645(c) or other health facility in which local capability for diagnosis and treatment is supported and augmented by the program established under this title.

(e) the term "nonprofit" as applied to any institution or agency means an institution or agency

[7] Sec. 902(a) amended by sec. 103 of P.L. 90–574, and further amended by subsecs. 104(a) and 111(b) of P.L. 91–515.

which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

42 U.S.C. 299b(f)

(f)[8] the term "construction" means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs, alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

GRANTS FOR PLANNING

42 U.S.C. 299c

SEC. 903. (a)[9] The Secretary, upon the recommendation of the National Advisory Council on Regional Medical Programs established by section 905 (hereafter in this title referred to as the "Council"), is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist them in planning the development of regional medical programs.

(b)[10] Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it contains or is supported by—

(1) reasonable assurances that Federal funds paid pursuant to any such grant will be used only for the purposes for which paid and in accordance with the applicable provisions of this title and the regulations thereunder;

(2) reasonable assurances that the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) reasonable assurances that the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

42 U.S.C. 299c(b)(4)

(4)[10] a satisfactory showing that the applicant has designated an advisory group, to advise the applicant (and the institutions and agencies participating

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[8] Subsec. 902(f) amended by subsec. 104(b) of P.L. 91–515.
[9] Sec. 903(a) amended by sec. 104 of P.L. 90–574, and further amended by subsec. 111(b) of P.L. 91–515.
[10] Sec. 903(b) amended by sec. 111(b) of P.L. 91–515, and sec. 903(b)(4) amended by sec. 105 of the same P.L.

in the resulting regional medical program) in formulating and carrying out the plan for the establishment and operation of such regional medical program, which advisory group includes practicing physicians, medical center officials, hospital administrators, representatives from appropriate medical societies, voluntary or official health agencies, health planning agencies, and representatives of other organizations, institutions, and agencies concerned with activities of the kind to be carried on under the program (including as an ex officio member, if there is located in such region one or more hospitals or other health facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such advisory group as the representative of the hospitals or other health care facilities of such Administration which are located in such region) and members of the public familiar with the need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community orientation (as determined by the Secretary).

GRANTS FOR ESTABLISHMENT AND OPERATION OF REGIONAL MEDICAL PROGRAMS

42 U.S.C. 299d

SEC. 904. (a)[11] The Secretary, upon the recommendation of the Council, is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist in establishment and operation of regional medical programs, including construction and equipment of facilities in connection therewith.

42 U.S.C. 299d(b)

(b)[12] Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it is recommended by the advisory group described in section 903 (b)(4), if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 314(b) covering any area in which the regional medical program for which the application is made will be located, and if the application contains or is supported by reasonable assurances that—

(1) Federal funds paid pursuant to any such grant (A) will be used only for the purposes for

[11] Sec. 904(a) amended by sec. 104 of P.L. 90–574, and further amended by sec. 111(b) of P.L. 91–515.
[12] Sec. 904(b) amended by secs. 106 and 111(b) of P.L. 91–515.

which paid and in accordance with the applicable provisions of this title and the regulations thereunder, and (B) will not supplant funds that are otherwise available for establishment or operation of the regional medical program with respect to which the grant is made;

(2) the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS

42 U.S.C. 299e(a)

SEC. 905. (a)[13] The Secretary may appoint, without regard to the civil service laws, a National Advisory Council on Regional Medical Programs. The Council shall consist of the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, who shall be the Chairman, the Chief Medical Director of the Veterans' Administration who shall be an ex officio member, and twenty members, not otherwise in the regular

[13] Sec. 905(a) amended by sec. 107(a) of P.L. 91–515, which further stated that:

"(b) Of the persons first appointed under section 905(a) of the Public Health Service Act to serve as the four additional members of the National Advisory Council on Regional Medical Programs authorized by the amendment made by subsection (a) of this section—

(1) one shall serve for a term of one year,
(2) one shall serve for a term of two years,
(3) one shall serve for a term of three years, and
(4) one shall serve for a term of four years,

as designated by the Secretary of Health, Education, and Welfare at the time of appointment.

(c) Members of the National Advisory Council on Regional Medical Programs (other than the Surgeon General) in office on the date of enactment of this Act shall continue in office in accordance with the term of office for which they were last appointed to the Council."

full-time employ of the United States, who are leaders in the fields of the fundamental sciences, the medical sciences, health care administration, or public affairs. At least two of the appointed members shall be practicing physicians, one shall be outstanding in the study or health care of persons suffering from heart disease, one shall be outstanding in the study or health care of persons suffering from cancer, one shall be outstanding in the study or health care of persons suffering from stroke, one shall be outstanding in the study or health care of persons suffering from kidney disease, two shall be outstanding in the field of prevention of heart disease, cancer, stroke, or kidney disease, and four shall be members of the public.

(b)[14] Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c)[15] The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters, arising with respect to, the administration of this title. The Council shall consider all applications for grants under this title and shall make recommendations to the Secretary with respect to approval of applications for and the amounts of grants under this title.

REGULATIONS

SEC. 906.[16] The Secretary, after consultation with the Council shall prescribe general regulations covering the terms and conditions for approving applications for grants under this title and the coordination of programs assisted under this title with programs for training, research, and demonstrations relating to the same diseases assisted or authorized under titles of this Act or other Acts of Congress. 42 U.S.C. 299f

[14] Sec. 905(b) amended by sec. 111(b) of P.L. 91–515.
[15] Sec. 905(c) deleted by sec. 601(b)(2) and (d) redesignated as (c) by sec. 601(b)(4) of P.L. 91–515. Former sec. 905(d) amended by sec. 111(b) of P.L. 91–515.
[16] Sec. 906 amended by sec. 111(b) of P.L. 91–515.

INFORMATION ON SPECIAL TREATMENT AND TRAINING CENTERS

42 U.S.C. 299g

SEC. 907.[17] The Secretary shall establish, and maintain on a current basis, a list or lists of facilities in the United States equipped and staffed to provide the most advanced methods and techniques in the diagnosis and treatment of heart disease, cancer, stroke or kidney disease, together with such related information, including the availability of advanced specialty training in such facilities, as he deems useful, and shall make such list or lists and related information readily available to licensed practitioners and other persons requiring such information. To the end of making such list or lists and other information most useful, the Secretary shall from time to time consult with interested national professional organizations.

REPORT

42 U.S.C. 299h

SEC. 908. On or before June 30, 1967, the Surgeon General, after consultation with the Council, shall submit to the Secretary for transmission to the President and then to the Congress, a report of the activities under this title together with (1) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to this title, (2) an appraisal of the activities assisted under this title in the light of their effectiveness in carrying out the purposes of this title, and (3) recommendations with respect to extension or modification of this title in the light thereof.

RECORDS AND AUDIT

42 U.S.C. 299i(a)

SEC. 909. (a)[18] Each recipient of a grant or contract under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this title which are pertinent to any such grant.

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[17] Sec. 907 amended by secs. 108 and 111(b) of P.L. 91–515.
[18] Sec. 909(a) amended by secs. 109 and 111(b) of P.L. 91–515.

MULTIPROGRAM SERVICES

SEC. 910.[19] (a) To facilitate interregional cooperation and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this title to make grants to public or nonprofit private agencies and institutions or combinations thereof and to contract for— 42 U.S.C. 299j

(1) programs, services, and activities of substantial use to two or more regional medical programs;

(2) development, trial, or demonstration of methods for control of heart disease, cancer, stroke, kidney disease, or other related diseases;

(3) the collection and study of epidemiologic data related to any of the diseases referred to in paragraph (2);

(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any of such diseases; and

(5) the conduct of cooperative clinical field trials.

(b) The Secretary is authorized to assist in meeting the costs of special projects for improving or developing new means for the delivery of health services concerned with the diseases with which this title is concerned.

(c) The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed to maximize the utilization of manpower in the delivery of health services.

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[19] Sec. 910 added by sec. 106 of P.L. 90–574, and amended by sec. 110(a) of P.L. 91–515.

# TITLE X[1]—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

### PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES

42 U.S.C. 201 note

SEC. 1001. (a) The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects.

(b) In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance.

(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; and $90,000,000 for the fiscal year ending June 30, 1973.

### FORMULA GRANTS TO STATES FOR FAMILY PLANNING SERVICES

SEC. 1002. (a) The Secretary is authorized to make grants, from allotments made under subsection (b), to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) For the purposes of this section, the term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973.

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[1] Title X added by sec. 6(c) of P.L. 91–572.

TRAINING GRANTS AND CONTRACTS

SEC. 1003. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 1001 or 1002.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; and $4,000,000 for the fiscal year ending June 30, 1973.

RESEARCH GRANTS AND CONTRACTS

SEC. 1004. (a) In order to promote research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population, the Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals for projects for research and research training in such fields.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $50,000,000 for the fiscal year ending June 30, 1972; and $65,000,000 for the fiscal year ending June 30, 1973.

INFORMATIONAL AND EDUCATIONAL MATERIALS

SEC. 1005. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; and $1,250,000 for the fiscal year ending June 30, 1973.

REGULATIONS AND PAYMENTS

SEC. 1006. (a) Grants and contracts made under this title shall be made in accordance with such regulations as the Secretary may promulgate.

(b) Grants under this title shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) A grant may be made or contract entered into under section 1001 or 1002 for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe.

VOLUNTARY PARTICIPATION

SEC. 1007. The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

PROHIBITION OF ABORTION

SEC. 1008. None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

[Excerpt From Public Law 91–296, June 30, 1970]

## TITLE VI—AVAILABILITY OF APPROPRIATIONS

Sec. 601. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this section, funds appropriated for any fiscal year ending prior to July 1, 1973, to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88–164, as amended) shall remain available for obligation and expenditure until the end of such fiscal year.

58 Stat. 682. 42 U.S.C. 201 note. 77 Stat. 282. 42 U.S.C. 2661 note.



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# FAMILY PLANNING SERVICES AND POPULATION RESEARCH ACT OF 1970

(EXCERPTS)

## [Excerpts From Public Law 91–572,[1] December 24, 1970]

### SHORT TITLE

Section 1. This Act may be cited as the "Family Planning Services and Population Research Act of 1970".

### DECLARATION OF PURPOSE

Sec. 2. It is the purpose of this Act—

(1) to assist in making comprehensive voluntary family planning services readily available to all persons desiring such services;

(2) to coordinate domestic population and family planning research with the present and future needs of family planning programs;

(3) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

(4) to enable public and nonprofit private entities to plan and develop comprehensive programs of family planning services;

(5) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

(6) to evaluate and improve the effectiveness of family planning service programs and of population research;

(7) to assist in providing trained manpower needed to effectively carry out programs of population research and family planning services; and

(8) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population research and family planning, through which the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") shall carry out the purposes of this Act.

### OFFICE OF POPULATION AFFAIRS

Sec. 3. (a) There is established within the Department of Health, Education, and Welfare an Office of

[1] Portions of this Act which amend the PHS Act are incorporated in the appropriate sections of that Act.

Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions.

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 4. The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to population research and family planning programs;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported by the Department through grants to, or contracts with, entities and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested persons and public and private entities;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning;

(5) to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research; and

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to population research and family planning and to make periodic recommendations to the Secretary.

PLANS AND REPORTS

SEC. 5. (a) Not later than six months after the date of enactment of this Act the Secretary shall make a report to the Congress setting forth a plan, to be carried out over a period of five years, for extension of family planning services to all persons desiring such services, for family planning and population research programs, for training of necessary manpower for the programs authorized

by title X of the Public Health Service Act and other Federal laws for which the Secretary has responsibility, and for carrying out the other purposes set forth in this Act and in such title X.

(b) Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under title X of the Public Health Service Act and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet these objectives; and

(3) the steps to be taken to establish a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) On or before January 1, 1972, and on or before each January 1 thereafter for a period of five years, the Secretary shall submit to the Congress a report which shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan;

(2) indicate steps being taken to achieve the objective during the remaining fiscal years of the plan and any revisions necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan.

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# COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

(EXCERPTS)

## [Excerpts From Public Law 91-616,[1] December 31, 1970]

**AN ACT To provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

# TITLE I—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

ESTABLISHMENT OF THE INSTITUTE

SEC. 101. (a) There is established in the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of section 301 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

82 Stat. 1006; *Ante*, p. 59. 42 U.S.C. 2688e 58 Stat. 691; 79 Stat. 448. 42 U.S.C. 241.

(b) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

REPORTS BY THE SECRETARY

SEC. 102. The Secretary shall—

(1) submit an annual report to Congress which shall include a description of the actions taken, services provided, and funds expended under this Act and part C of the Community Mental Health Centers Act, an evaluation of the effectiveness of such actions, services, and expenditures of funds, and

Reports to President and Congress.

[1] Portions of this Act which amend the PHS Act are incorporated in the appropriate sections of the Act, and portions which amend the Community Mental Health Centers Act are incorporated in the appropriate sections of that Act.

such other information as the Secretary considers appropriate;

(2) submit to Congress on or before the expiration of the one-year period beginning on the date of enactment of this Act a report (A) containing current information on the health consequences of using alcoholic beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requested by the President of the United States or by Congress; and

(4) submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism.

# TITLE II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

## ALCOHOL ABUSE AND ALCOHOLISM AMONG FEDERAL CIVILIAN EMPLOYEES

SEC. 201. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this Act. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.

(b) The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c) (1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(d) This title shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

# TITLE III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

## PART A—FORMULA GRANTS

### AUTHORIZATION

Appropriation.

SEC. 301. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $80,000,000 for the fiscal year ending June 30, 1973, for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. For purposes of this part, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States.

"State."

### STATE ALLOTMENT

SEC. 302. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 301 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

(b) Any amount so allotted to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such

basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(c) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year.

STATE PLANS

SEC. 303. (a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, to consult with the State agency in carrying out the plan;

(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide services for alcohol abuse and alcoholism and a plan for the development and distribution of such facilities and programs throughout the State;

(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(9) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds; and

(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

State plans, approval.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

## Part C—Admission to Hospitals

### Admission of alcohol abusers and alcoholics to private and public hospitals

Sec. 321. (a) Alcohol abusers and alcoholics shall be admitted to and treated in private and public general hos-

pitals, which receive Federal funds for alcoholic treatment programs, on the basis of medical need and shall not be discriminated against solely because of their alcoholism. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act; except that the Secretary shall not terminate any such Federal assistance until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and has provided an opportunity for correction or a hearing.

Failure to comply, termination of Federal assistance.

Hearing opportunity.

(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by section 404 of the Community Mental Health Centers Act.

Judicial review.
77 Stat. 298.
42 U.S.C. 2694.

CONFIDENTIALITY OF RECORDS

Research and treatment populations.

SEC. 333. The Secretary may authorize persons engaged in research on, or treatment with respect to, alcohol abuse and alcoholism to protect the privacy of individuals who are the subject of such research or treatment by withholding from all persons not connected with the conduct of such research or treatment the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

## TITLE V—GENERAL

Separability.

SEC. 501. If any section, provision, or term of this Act is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

Recordkeeping.

SEC. 502. (a) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Records, accessibility.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this Act under other than competitive bidding procedures.

Payments.

SEC. 503. Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

# EXCERPTS FROM THE NATIONAL HOUSING ACT (AS OF JANUARY 2, 1971) PERTAINING TO MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, HOSPITALS, AND GROUP PRACTICE FACILITIES

## [Excerpts From the National Housing Act (as of January 2, 1971) Pertaining to Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Hospitals, and Group Practice Facilities]

### MORTGAGE INSURANCE FOR NURSING HOMES

SEC. 232.[1] (a) The purpose of this section is to assist in the provision of facilities for either of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services.

(2) The development of intermediate care facilities for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel.

(b) For the purposes of this section—

(1) the term "nursing home" means a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term "intermediate care facility" means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous

[1] Sec. 232 amended by sec. 111 of P.L. 91–152.

care but are not in need of continuous medical or nursing services; and

(3) the term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed. The term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term "mortgagor" shall have the meaning set forth in section 207(a) of this Act.

(c) The Secretary is authorized to insure any mortgage (including advances on such mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) In order to carry out the purposes of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home or intermediate care facility or combined nursing home and intermediate care facility including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed $12,500,000, and not to exceed 90 per centum of the estimated value of the property or project, including equipment to be used in the operation of the home or facility or combined home and facility, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest (exclusive of premium charges for insurance) at not to exceed 5 per centum per annum of the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) of the Public Health Service Act for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (A) there is a need for such home or facility or combined home and facility, and (B) there are in force in such State or in the municipality or other political subdivision of the State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section.

(e) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section and all references therein to section 207 shall refer to this section.

(g) The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section relating to intermediate care facilities, after consulting with the Secretary of Health, Education, and Welfare with respect to any health or medical aspects

of the program which may be involved in such regulations.

(h) The Secretary shall also consult with the Secretary of Health, Education, and Welfare as to the need for and the availability of intermediate care facilities in any area for which an intermediate care facility is proposed under this section.

SUPPLEMENTAL LOANS FOR MULTIFAMILY PROJECTS

SEC. 241.[2] (a) With respect to a multifamily project or group practice facility covered by a mortgage insured under any section or title of this Act or covered by a mortgage held by the Secretary, the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure, and to insure, supplemental loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. As used in this section, "supplemental loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to such project or facility: *Provided*, That a loan involving a nursing home or a group practice facility may also be made for the purpose of financing equipment to be used in the operation of such nursing home or facility.

(b) To be eligible for insurance under this section, a supplemental loan shall—

(1) be limited to 90 per centum of the amount which the Secretary estimates will be the value of such improvements, additions, and equipment, except that such amount when added to the outstanding balance of the mortgage covering the project or facility, shall not exceed the maximum mortgage amount insurable under the section or title pursuant to which the mortgage covering such project or facility is insured or an amount acceptable to the Secretary;

(2) have a maturity satisfactory to the Secretary but not to exceed the remaining term of the mortgage;

(3) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions;

(4) be secured in such manner as the Secretary may require;

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[2] Sec. 241 amended by sec. 111 of P.L. 91–609.

(5) be governed by the labor standards provisions of section 212 that are applicable to the section or title pursuant to which the mortgage covering the project or facility is insured or pursuant to which the original mortgage covering the project or facility was insured; and

(6) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(c) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that (1) all references to the term "mortgage" shall be construed to refer to the term "loan" as used in this section, (2) loans involving projects covered by a mortgage insured under section 213 that is the obligation of the Cooperative Management Housing Insurance Fund shall be insured under and shall be the obligation of such fund, and (3) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligation of the Special Risk Insurance Fund.

MORTGAGE INSURANCE FOR HOSPITALS

SEC. 242.[3] (a) The purpose of this section is to assist the provision of urgently needed hospitals for the care and treatment of persons who are acutely ill or who otherwise require medical care and related services of the kind customarily furnished only (or most effectively) by hospitals.

(b) For the purposes of this section—

(1) The term "hospital" means a facility—

(A) which provides community service for inpatient medical care of the sick or injured (including obstetrical care):

(B) not more than 50 per centum of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis; and

(C) which is a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located); and

(2) the terms "mortgage" and "mortgagor" shall have the meanings respectfully set forth in section 207(a) of this Act.

[3] Sec. 242 amended by sec. 110 of P.L. 91-609.

(c) The Secretary is authorized to insure any mortgage (including advances on such mortgagee during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) In order to carry out the purpose of this section the Secretary is authorized to insure any mortgage which covers a new or rehabilitated hospital, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortage shall involve a principal obligation in an amount not to exceed $50,000,000, and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market.

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) of the Public Health Service Act for the State in which is located the hospital covered by the mortgage, a certification that (A) there is a need for such hospital, and (B) there are in force in such State or the political subdivision of the State in which the proposed hospitalwould be located reasonable minimum standards of licensure and methods of operation for hospitals. No such mortgage shall be insured under this section unless the Secre-

tary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any hospital located in the State for which mortgage insurance is provided under this section.

(e) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) The activities and functions provided for in this section shall be carried out by the agencies involved so as to encourage programs that undertake responsibility to provide comprehensive health care, including outpatient and preventive care, as well as hospitalization, to a defined population.

(g)(1) Notwithstanding any of the other provisions of this title, the Secretary may insure under this section a mortgage which provides permanent financing or refinancing of existing mortgage indebtedness in the case of a hospital whose permanent financing is presently lacking, if the construction of such hospital was completed between January 1, 1966, and the date of the enactment of this Act.

(2) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed $20,000,000.

(h) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section and all references therein to section 207 shall be deemed to refer to this section.[4] 12 U.S.C. 1713.

## Mortgage Insurance for Group Practice Facilities (Title XI)

### Insurance of Mortgages

Sec. 1101.[5] (a) The Secretary is authorized (1) to insure mortgages (including advances on such mortgages during construction), upon such terms and conditions as he may prescribe, in accordance with the provisions of this title, and (2) to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon. No mortgage shall be insured under this title after October 1, 1972, except pursuant to a commitment to insure issued before that date.

(b) To be eligible for insurance under this title, the mortgage shall (1) be executed by a mortgagor that is a group practice unit or organization, approved by the Secretary, (2) be made to and held by a mortgagee approved

[4] See sec. 212 of the National Housing Act for provisions regarding labor standards affecting sec. 242.

[5] Sec. 1101 amended by sec. 418(f) of P.L. 91–152 and by sec. 101(i) of P.L. 91–609.

by the Secretary as responsible and able to service the mortgage properly, and (3) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation and is designed for use as a group practice facility which the Secretary finds will be constructed in an economical manner, will not be of elaborate or extravagant design or materials, and will be adequate and suitable for carrying out the purposes of this title. No mortgage shall be insured under this title unless it is shown to the satisfaction of the Secretary that the applicant would be unable to obtain the mortgage loan without such insurance on terms comparable to those specified in subsection (c).

(c) The mortgage shall—

(1) not exceed $5,000,000;

(2) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when construction or rehabilitation is completed. The replacement cost of the property may include the land and the proposed physical improvements, equipment, utilities within the boundaries of the property, architects' fees, taxes, and interest accruing during construction or rehabilitation, and other miscellaneous charges incident to construction or rehabilitation and approved by the Secretary;

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the beginning of amortization of the mortgage and provide for complete amortization of the principal obligation by periodic payments within such terms as the Secretary shall prescribe; and

(4) bear interest (exclusive of premium charges for insurance, and service charges if any) at a rate of not to exceed 5 per centum per annum of the amount of the principal obligation outstanding at any time, or not to exceed such rate (not in excess of 6 per centum per annum) as the Secretary finds necessary to meet the mortgage market.

(d) Any contract of insurance executed by the Secretary under this title shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract for insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(e) Each mortgage insured under this title shall contain an undertaking (in accordance with regulations prescribed under this title and in force at the time the mortgage is approved for insurance) to the effect that, except as authorized by the Secretary and the mortgagee, the

property will be used as a group practice facility until the mortgage has been paid in full or the contract of insurance otherwise terminated.

(f) No mortgage shall be insured under this title unless the mortgagor and the mortgagee certify (1) that they will keep such records relating to the mortgage transaction and indebtedness, to the construction of the facility covered by the mortgage, and to the use of such facility as a group practice facility as are prescribed by the Secretary at the time of such certification, (2) that they will make such reports as may from time to time be required by the Secretary pertaining to such matters, and (3) that the Secretary shall have access to and the right to examine and audit such records.

PREMIUMS

SEC. 1102. The Secretary shall fix premium charges for the insurance of mortgages under this title, but such charges shall not be more than 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. In addition to the premium charge, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the analysis of a proposed project and the appraisal and inspection of the property and improvements. Where the principal obligation of any mortgage accepted for insurance under this title is paid in full prior to the maturity date, the Secretary is authorized to require the payment by the mortgagee of an adjusted premium charge. This charge shall be in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until the maturity date. Where such prepayment occurs, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. Premium charges fixed under this section shall be payable by the mortgagee either in cash, or in debentures which are the obligation of the General Insurance Fund at par plus accrued interest, at such times and in such manner as may be prescribed by the Secretary.

PAYMENT OF INSURANCE BENEFITS

SEC. 1103. The mortgagee shall be entitled to receive the benefits of the insurance under this title in the manner provided in subsection (g) of section 207 with respect to mortgages insured under that section. For such

purpose the provisions of subsections (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this title and all references in such subsections to section 207 shall be deemed to refer to this title.

REGULATIONS

SEC. 1104. The Secretary shall prescribe such regulations as may be necessary to carry out this title, after consulting with the Secretary of Health, Education, and Welfare with respect to any health or medical aspects of the program under this title which may be involved in such regulations.

ADMINISTRATION

SEC. 1105. (a) At the request of individuals or organizations operating or contemplating the operation of group practice facilities (as defined in section 1106(1)), the Secretary may provide or obtain technical assistance in the planning for and construction of such facilities.

(b) With a view to avoiding unnecessary duplication of existing staffs and facilities of the Federal Government, the Secretary is authorized to utilize available services and facilities of any agency of the Federal Government in carrying out the provisions of this title, and to pay for such services and facilities, either in advance or by way of reimbursement, in accordance with an agreement between the Secretary and the head of such agency.

DEFINITIONS

SEC. 1106. For the purposes of this title—

(1) The term "group practice facility" means a facility in a State for the provision of preventive, diagnostic, and treatment services to ambulatory patients (in which patient care is under the professional supervision of persons licensed to practice medicine in the State or, in the case of optometric care or treatment, is under the professional supervision of persons licensed to practice optometry in the State, or, in the case of dental diagnosis or treatment, is under the professional supervision of persons licensed to practice dentistry in the State) and which is primarily for the provision of such health services by a medical or dental group.

(2) The term "medical or dental group" means a partnership or other association or group of persons licensed to practice medicine or surgery in the State, or of persons licensed to practice optometry in the State, or of persons licensed to practice dentistry in the State, or of any combination of such persons, who, as their principal professional activity and as a group responsibility, engage or undertake to engage in the coordinated practice

of their profession primarily in one or more group practice facilities, and who (in this connection) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records, and substantial portions of the equipment and the professional, technical, and administrative staffs, and which partnership or association or group is composed of at least such professional personnel and make available at least such health services as may be provided in regulations prescribed under this title.

(3) The term "group practice unit or organization" means—

(A) a private nonprofit agency or organization undertaking to provide, directly or through arrangements with a medical or dental group, comprehensive medical care, optometric care, or dental care, or any combination thereof, which may include hospitalization, to members or subscribers primarily on a group practice prepayments basis; or

(B) a private nonprofit agency or organization established for the purpose of improving the availability of medical, optometric, or dental care in the community or having some function or functions related to the provision of such care, which will, through lease or other arrangement, make the group practice facility with respect to which assistance has been requested under this title available to a medical or dental group for use by it.

(4) The term "nonprofit organization" means a corporation, association, foundation, trust, or other organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual except, in the case of an organization the purposes of which include the provision of personal health services to its members or subscribers or their dependents under a plan of such organization for the provision of such services to them (which plan may include the provision of other services or insurance benefits to them), through the provision of such health services (or such other services or insurance benefits) to such members or subscribers or dependents under such plan.

(5) The term "State" includes the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the District of Columbia.

(6) The term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed. The term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not limited to ad-

vances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty.

(7) The term "mortgagee" means the original lender under a mortgage, and his or its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee named therein.

(8) The term "mortgagor" means the original borrower under a mortgage and his or its successors and assigns.[6]

[6] See sec. 212 of the National Housing Act for provisions regarding labor standards affecting title XI and sec. 227 of the National Housing Act for provisions regarding builder's cost certification affecting title XI.

# MISCELLANEOUS LAWS RELATING TO MENTAL HEALTH AND MENTAL RETARDATION

53-741 O—71—vol. 1——20

# MISCELLANEOUS LAWS RELATING TO MENTAL HEALTH AND MENTAL RETARDATION

[PUBLIC LAW 88–164, APPROVED OCTOBER 31, 1963, AS AMENDED [1]] 77 Stat. 282

AN ACT TO provide assistance in combating mental retardation through grants for construction of research centers and grants for facilities for the mentally retarded and assistance in improving mental health through grants for construction of community mental health centers, and for other purposes.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963".

[1] Provisions of this Act which amended the P.H.S. Act were incorporated as pt. D in title VII, of the P.H.S. Act.

# TITLE I [2]—SERVICES AND FACILITIES FOR THE MENTALLY RETARDED AND PERSONS WITH OTHER DEVELOPMENTAL DISABILITIES

SHORT TITLE

SEC. 100.[3] This title may be cited as the "Developmental Disabilities Services and Facilities Construction Act".[4]

## PART A—GRANTS FOR CONSTRUCTION OF CENTERS FOR RESEARCH ON MENTAL RETARDATION AND RELATED ASPECTS OF HUMAN DEVELOPMENT

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## PART B [5]—CONSTRUCTION, DEMONSTRATION, AND TRAINING GRANTS FOR UNIVERSITY-AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2661

SEC. 121.[6, 7] (a) For the purpose of assisting in the construction (and the planning for the construction) of facilities which will aid in demonstrating provision of specialized services for the diagnosis and treatment, education, training, or care of persons with developmental disabilities or in the interdisciplinary training of physicians and other specialized personnel needed for research, diagnosis and treatment, education, training, or care of persons with developmental disabilities, including research incidental or related to any of the foregoing activities, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1964, $7,500,000 for the fiscal year ending June 30, 1965, $10,000,000 each for the fiscal year ending June 30, 1966, the fiscal year ending June 30, 1967, and the fiscal year ending June 30, 1968, and $20,000,000 for each of the next five fiscal years through the fiscal year ending June 30, 1973. Except as provided in subsection (b), the sums so appropriated shall be used for project grants for

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[2] The heading of title I amended by sec. 101(a) of P.L. 91–517.

[3] Sec. 100 amended by sec. 207(a) of P.L. 91–517.

[4] Section 601 of P.L. 91–296 provides in part that unless expressly limited by later enactment, funds appropriated for any fiscal year ending prior to July 1, 1973, for any program under this Act shall remain available for obligation and expenditure for such fiscal year.

[5] The heading of pt. B amended by sec. 207(b) of P.L. 91–517.

[6] Sec. 121 amended by secs. 2 (a), (b), and (d)(1) of P.L. 90–170, and sec. 201 (a) and (b) of P.L. 91–517.

[7] Sec. 513 of the Public Health Service Act authorizes in part, that, such portion as the Secretary may determine, up to 1 per centum, of any appropriation under any provision of the Mental Retardation Facilities Construction Act shall be available for evaluation of any program authorized thereunder.

construction of public and other nonprofit facilities for persons with developmental disabilities which are associated with a college or university.

Appropriations.

(b)[8] (1) Of the sums appropriated pursuant to subsection (a) for any fiscal year, beginning with the fiscal year ending June 30, 1968, an amount equal to 2 per centum thereof (or such smaller amount as the Secretary may determine to be appropriate) shall be available to the Secretary for the purpose of making grants to cover not to exceed 75 per centum of the costs of the planning of projects with respect to the construction of which applications for grants may be made under this part. Not more than $25,000 shall be granted under this subsection with respect to any project.

(2) Planning grants under this subsection shall be made by the Secretary to such applicants and upon such terms and conditions as he shall by regulations prescribe. Payment of grants under this subsection shall be made in advance or by way of reimbursement, as the Secretary may determine.

(3) Whenever, in the succeeding provisions of this part, the term "grant", "grants", or "funds" is employed, such term shall be deemed not to include any grant under this subsection or any of the funds of any such grant.

DEMONSTRATION AND TRAINING GRANTS

SEC. 122.[9] (a) For the purposes of assisting institutions of higher education to contribute more effectively to the solution of complex health, education, and social problems of children and adults suffering from developmental disabilities, the Secretary may, in accordance with the provisions of this part, make grants to cover costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, including established disciplines as well as new kinds of training to meet critical shortages in the care of persons with developmental disabilities.

(b) [9a] For the purpose of making grants under this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971; $17,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 3, 1973.

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[8] Subsec. 121(b) added by sec. 2(c) of P.L. 90–170.
[9] Sec. 122 added by sec. 202 of P.L. 91–517.
[9a] See footnote 7 on p. 300.

APPLICATIONS

42 U.S.C. 2662

SEC. 123.[10, 11] (a) Applications for grants under this part with respect to the construction of any facility may be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

(1) the facility will be associated, to the extent prescribed in regulations of the Secretary, with a college or university hospital (including affiliated hospitals), or with such other part of a college or university as the Secretary may find appropriate in the light of the purposes of this part;

(2) the plans and specifications are in accord with regulations prescribed by the Secretary under section 139(d);

(3) title to the site for the project is or will be vested in one or more of the agencies or institutions filing the application or in a public or other nonprofit agency or institution which is to operate the facility;

(4) adequate financial support will be available for construction of the project and for its maintenance and operation when completed; and

(5) all laborers and mechanics employed by contractors or subcontractors in the performance of

49 Stat. 1011

work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the

63 Stat. 108

Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this para-

64 Stat. 1267

graph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) Applications for demonstration and training grants under this part may be approved by the Secretary only if the applicant is a college or university operating a facility of the type described in section 121, or is a public or nonprofit private agency or organization operating such a facility. In considering applications for such grants, the Secretary shall give priority to any application which shows that the applicant has made arrangements, in accordance with regulations of the Secretary, for a junior college to participate in the programs for which the application is made.

[10] Secs. 122, 123, 124, and 125 renumbered as secs. 123, 124, 125, and 126 respectively, by sec. 202 of P.L. 91–517.

[11] Sec. 123 amended by sec. 203 of P.L. 91–517.

AMOUNT OF GRANTS; PAYMENTS

SEC. 124.[12] (a) The total of the grants with respect to any project under this part may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary. 42 U.S.C. 2663

(b) Payments of grants under this part shall be made in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

RECOVERY

SEC. 125.[13] If any facility with respect to which construction funds have been paid under this part shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not qualified to file an application under this part, or 42 U.S.C. 2664

(2) cease to be a public or other nonprofit facility for persons with developmental disabilities, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects.

NONDUPLICATION OF GRANTS

SEC. 126.[14] No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1963, and ending June 30, 1970, for construction of any facility for persons with developmental disabilities described in this part, unless the Secretary determines that funds are not available under this part to make a grant for the construction of such facility. 58 Stat. 682 42 U.S.C. 201 note 42 U.S.C. 2665

[12] Sec. 124 amended by sec. 204 of P.L. 91–517.
[13] Sec. 125 amended by secs. 201(c) and 205 of P.L. 91–517.
[14] Sec. 126 amended by sec. 201(c) of P.L. 91–517.

MAINTENANCE OF EFFORT

SEC. 127.[15] Applications for grants under this part may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the grants will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which would (except for such grant) be available to the applicant, but that such grants will be used to supplement, and, to the extent practicable, to increase the level of such funds.

PART C—[16] GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

DECLARATION OF PURPOSE

SEC. 130. The purpose of this part is to authorize—

(a) grants to assist the several States in developing and implementing a comprehensive and continuing plan for meeting the current and future needs for services to persons with developmental disabilities;

(b) grants to assist public or nonprofit private agencies in the construction of facilities for the provision of services to persons with developmental disabilities, including facilities for any of the purposes stated in this section;

(c) grants for provision of services to persons with developmental disabilities, including costs of operation, staffing, and maintenance of facilities for persons with developmental disabilities;

(d) grants for State or local planning, administration, or technical assistance relating to services and facilities for persons with developmental disabilities;

(e) grants for training of specialized personnel needed for the provision of services for persons with developmental disabilities, or research related thereto; and

(f) grants for developing or demonstrating new or improved techniques for the provisions of services for persons with developmental disabilities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 131. In order to make the grants to carry out the purposes of section 130, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1971, $105,000,000 for the fiscal year ending June 30, 1972, and $130,000,000 for the fiscal year ending June 30, 1973.

[15] Sec. 127 added by sec. 206 of P.L. 91–517.
[16] Part C amended by sec. 101(b) of P.L. 91–517.

STATE ALLOTMENTS

SEC. 132(a)(1) [16a] From the sums appropriated to carry out the purposes of section 130 for each fiscal year, other than amounts reserved by the Secretary for projects under subsection (e), the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of (A) the population, (B) the extent of need for services and facilities for persons with developmental disabilities, and (C) the financial need, of the respective States; except that the allotment of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any such fiscal year shall not be less than $100,000 plus, if such fiscal year is later than the fiscal year ending June 30, 1971, and if the sums so appropriated for such fiscal year exceed the amount authorized to be appropriated to carry out such purposes for the fiscal year ending June 30, 1971, an amount which bears the same ratio to $100,000 as the difference between the amount so appropriated and the amount authorized to be appropriated for the fiscal year ending June 30, 1971, bears to the amount authorized to be appropriated for the fiscal year ending June 30, 1971.

(2) In determining, for purposes of paragraph (1), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 134(b)(5), in the State plan of such State approved under this part.

(3) Sums allotted to a State for a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted to such State for such next fiscal year: *Provided*, That if the maximum amount which may be specified pursuant to section 134(b)(15) for a year plus any part of the amount so specified pursuant thereto for the preceding fiscal year and remaining unobligated at the end thereof is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 134(b)(13), the amount specified pursuant to such section for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(b) Whenever the State plan approved in accordance with section 134 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary,

[16a] See footnote 7 on p. 300.

is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of this part. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of this part will receive proportionate benefit from the combination.

(c) Whenever the State plan approved in accordance with section 134 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

(e) Of the sums appropriated pursuant to section 131, such amount as the Secretary may determine, but not more than 10 per centum thereof, shall be available for grants by the Secretary to public or nonprofit private agencies to pay up to 90 per centum of the cost of projects for carrying out the purposes of section 130 which in his judgment are of special national significance because they will assist in meeting the needs of the disadvantaged with developmental disabilities, or will demonstrate new or improved techniques for provision of services for such persons, or are otherwise specially significant for carrying out the purposes of this title.

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

SEC. 133. (a) (1) Effective July 1, 1971, there is hereby established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter referred to as the 'Council'), which shall consist of twenty members, not otherwise in the regular full-time employ of the United States, to be appointed by the Secretary without regard to the provisions of title 5, United States

Code, governing appointments in the competitive civil service.

(2) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

Membership.

(3) The members of the Council shall be selected from leaders in the fields of service to the mentally retarded and other persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations representing consumers of such services. At least five members shall be representative of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five shall be representative of the interests of consumers of such services.

Term of office.

(b) Each member of the Council shall hold for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the twenty members first appointed, five shall hold office for a term of three years, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Secretary at the time of appointment.

Duties.

(c) It shall be the duty and function of the Council to (1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of this title, and (2) study and evaluate programs authorized by this title with a view of determining their effectiveness in carrying out the purposes for which they were established.

Technical, clerical assistance.

(d) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

Compensation, travel expenses.

(e) Members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS–18 of the General Schedule for each day of such service (including travel time), and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

35 F.R. 6247
5 U.S.C. 5332 note

83 Stat. 190

STATE PLANS

SEC. 134. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

Approval, conditions.

(b) In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

(1) designate (A) a State planning and advisory council, to be responsible for submitting revisions of the State plan and transmitting such reports as may be required by the Secretary; (B) except as provided in clause (C), the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction under the State plan, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(2) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 132 will be used to complement and augment rather than duplicate or replace services and facilities for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(3) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities;

(4) contain or be supported by assurances satisfactory to the Secretary that (A) the funds paid to the State under this part will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the quality, scope, and extent of such services; (B) part of such funds will be made avail-

able to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

(5) (A) provide for the furnishing of services and facilities for persons with developmental disabilities associated with mental retardation, (B) specify the other categories of developmental disabilities (approved by the Secretary) which will be included in the State plan, and (C) describe the quality, extent, and scope of such services as will be provided to eligible persons;

(6) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services and the maintenance and operation of such facilities, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(7) [17] provide such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(8) provide that the State planning and advisory council shall be adequately staffed, and shall include representatives of each of the principal State agencies and representatives of local agencies and nongovernmental organizations and groups concerned with services for persons with developmental disabilities: *Provided*, That at least one-third of the membership of such council shall consist of representatives of consumers of such services;

(9) provide that the State planning and advisory council will from time to time, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary; Annual review.

[17] Sec. 208(a)(3) of P.L. 91–648 transfers to the U.S. Civil Service Commission all functions, powers, and duties of the Secretary insofar as they relate to the prescription of personnel standards on a merit basis.

Records and reports availability.

(10) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

Urban or rural poverty area, special assistance.

(11) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

(12) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State;

(13) provide for the development of a program of construction of facilities for the provision of services for persons with developmental disabilities which (A) is based on a statewide inventory of existing facilities and survey of need; and (B) meets the requirements prescribed by the Secretary for furnishing needed services to persons unable to pay therefor;

(14) set forth the relative need, determined in accordance with regulations prescribed by the Secretary, for the several projects included in the construction program referred to in paragraph (13), and assign priority to the construction of projects, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(15) specify the per centum of the State's allotment (under section 132) for any year which is to be devoted to construction of facilities, which per centum shall be not more than 50 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

(16) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(17) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part; and

(18) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

APPROVAL OF PROJECTS FOR CONSTRUCTION

SEC. 135. (a) For each project for construction pursuant to a State plan approved under this part, there shall be submitted to the Secretary, through the State agency designated pursuant to section 134(b)(1)(C), an application by the State or a political subdivision thereof or by a public or nonprofit private agency. If two or more agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such application shall set forth— Application.

(1) a description of the site for such project;

(2) plans and specifications thereof, in accordance with regulations prescribed by the Secretary;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the facility;

(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

(6) a certification by the State agency of the Federal share for the project.

(b) The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (1) that the application contains such reasonable assurances as to title, financial support, and payment of prevailing rates of wages and overtime pay, (2) that the plans and specifications are in accord with regulations prescribed by the Secretary, (3) that the application is in conformity with the State plan approved under this part, and (4) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the State's plan for persons with developmental disabilities and in accordance with regulations prescribed by the Secretary.

(c) No application shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of any approved application shall be subject to approval in the same manner as the original application.

WITHHOLDING OF PAYMENTS FOR CONSTRUCTION

SEC. 136. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning and advisory council designated pursuant to section 134 (b) (1) (A) and the State agency designated pursuant to section 134(b) (1) (C) finds—

(a) that the State agency is not complying substantially with the provisions required by section 134(b) to be included in the State plan, or with regulations of the Secretary;

(b) that any assurance required to be given in an application filed under section 135 is not being or cannot be carried out;

(c) that there is a substantial failure to carry out plans and specifications related to construction approved by the Secretary under section 134; or

(d) that adequate funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify such State council and agency that—

(e) no further payments will be made to the State for construction from allotments under this part; or

(f) no further payments will be made from allotments under this part for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section;

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments for construction projects may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES

SEC. 137. (a) (1) From each State's allotments for a fiscal year under section 132, the State shall be paid the Federal share of the expenditures, other than expendi-

tures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(2) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision thereof or by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State.

"Federal share"

(b)(1) Except as provided in paragraph (2), the "Federal share" with respect to any State for purposes of this section for any fiscal year shall be 75 per centum of the expenditures, other than expenditures for construction, incurred by the State during such year under its State plan approved under this part during each of the fiscal years ending June 30, 1971, and June 30, 1972, and 70 per centum of such nonconstruction expenditures during the fiscal year ending June 30, 1973.

Urban or rural poverty area

(2) In the case of any project located in an area within a State determined by the Secretary to be an urban or rural poverty area, the "Federal share" with respect to such project for purposes of this section for any fiscal year may be up to 90 per centum of the expenditures, other than expenditures for construction, incurred by the State during such year under its State plan approved under this part with respect to such project for the first twenty-four months of such project, and 80 per centum of such nonconstruction expenditures for the next twelve months.

WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES

SEC. 138. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning and advisory council and the appropriate State agency, designated pursuant to section 134(b)(1) finds that—

(a) there is a failure to comply substantially with any of the provisions required by section 134 to be included in the State plan; or

(b) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part,

the Secretary shall notify such State council and agency or agencies that further payments will not be made to the State under this part (or, in his discretion, that further payments will not be made to the State under this part

for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under this part, or shall limit further payment under this part to such State to activities in which there is no such failure.

REGULATIONS

SEC. 139. The Secretary, as soon as practicable, by general regulations applicable uniformly to all the States, shall prescribe—

(a) the kinds of services which are needed to provide adequate programs for persons with developmental disabilities, the kinds of services which may be provided under a State plan approved under this part, and the categories of persons for whom such services may be provided;

(b) standards as to the scope and quality of services provided for persons with developmental disabilities under a State plan approved under this part;

(c) the general manner in which a State, in carrying out its State plan approved under this part, shall determine priorities for services and facilities based on type of service, categories of persons to be served, and type of disability, with special consideration being given to the needs for such services and facilities in areas of urban and rural poverty; and

(d) general standards of construction and equipment for facilities of different classes and in different types of location.

After appointment of the Council, regulations and revisions therein shall be promulgated by the Secretary only after consultation with Council.

NONDUPLICATION

SEC. 140. (a) In determining the amount of any payment for the construction of any facility under a State plan approved under this part, there shall be disregarded (1) any portion of the costs of such construction which are financed by Federal funds provided under any provision of law other than this part, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

(b) In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved under this part, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than this part, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

## Part D [18]—Grants for the Cost of Professional and Technical Personnel of Community Mental Retardation Facilities

### AUTHORIZATION OF GRANTS

SEC. 141. (a) For the purpose of assisting in the establishment and initial operation of facilities for the mentally retarded providing all or part of a program of comprehensive services for the mentally retarded principally designed to serve the needs of the particular community or communities in or near which the facility is situated, the Secretary may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations under section 144) of compensation of professional and technical personnel for the initial operation of new facilities for the mentally retarded or of new services in facilities for the mentally retarded.

(b) Grants for such costs for any facility for the mentally retarded under this part may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of four years and three months after such first day; and such grants with respect to any such facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following such first day, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(c) In making such grants, the Secretary shall take into account the relative needs of the several States for services for the mentally retarded, their relative financial needs, and their populations.

### APPLICATIONS AND CONDITIONS FOR APPROVAL

SEC. 142 (a) Grants under this part with respect to any facility for the mentally retarded may be made only upon application, and only if—

(1) the applicant is a public or nonprofit private agency or organization which owns or operates the facility;

(2) (A) a grant was made under part C of this title to assist in financing the construction of the facility or (B) the type of service to be provided as part of such program with the aid of a grant under this part was not previously being provided

[18] Pt. D added by sec. 4 of P.L. 90–170.

by the facility with respect to which such application is made;

(3) the Secretary determines that there is satisfactory assurance that Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds for mental retardation services that would in the absence of such Federal funds be made available for (or under) the program described in paragraph (2) of this subsection, and will in no event supplant such State, local, and other non-Federal funds; and

(4) in the case of an applicant in a State which has in existence a State plan relating to the provision of services for the mentally retarded, the services to be provided by the facility are consistent with the plan.

(b) No grant may be made under this part after June 30, 1972, with respect to any facility for the mentally retarded or with respect to any type of service provided by such a facility unless a grant with respect thereto was made under this part prior to July 1, 1970.

PAYMENTS

SEC. 143. Payment of grants under this part may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

REGULATIONS

SEC. 144. The Secretary shall prescribe general regulations concerning the eligibility of facilities under this part, determination of eligible costs with respect to which grants may be made, and the terms and conditions (including those specified in section 142) for approving applications under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 145.[18a] There are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, and $14,000,000 for the fiscal year ending June 30, 1970, to enable the Secretary to make initial grants to facilities for the mentally retarded under the provisions of this part. For the fiscal year ending June 30, 1969, and each of the next five years, there are authorized to be appropriated such sums as may be necessary to make grants to such facilities which have previously received a grant under this part and are eligible for such a grant for the year for which sums are being appropriated under this sentence.

[18a] See footnote 7 on p. 300.

# TITLE II—COMMUNITY MENTAL HEALTH CENTERS [1]

## SHORT TITLE

Citation of title

SEC. 200. This title may be cited as the "Community Mental Health Centers Act".[2]

## PART A—GRANTS FOR CONSTRUCTION

### AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2681

SEC. 201.[3, 4] There are authorized to be appropriated, for grants for construction of public and other nonprofit community mental health centers, $35,000,000 for the fiscal year ending June 30, 1965, $50,000,000 for the fiscal year ending June 30, 1966, $65,000,000 for the fiscal year ending June 30, 1967, $50,000,000 for the fiscal year ending June 30, 1968, $60,000,000 for the fiscal year ending June 30, 1969, $70,000,000 for the fiscal year ending June 30, 1970, $80,000,000 for the fiscal year ending June 30, 1971, $90,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

### ALLOTMENTS TO STATES

42 U.S.C. 2682

SEC. 202.[5] (a) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments from the sums appropriated under section 201 to the several States on the basis of (1) the population, (2) the extent of the need for community mental health centers, and (3) the financial need of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, for any fiscal year may be less than $100,000. Sums so allotted to a State other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, for a fiscal year

[1] Sec. 2(a) of P.L. 89–105 amended the heading of title II; added a new heading "Part A—Grants for Construction;" and changed the words "this title" wherever it appeared in sec. 201 through 207 to read "this part."

[2] Sec. 601 of P.L. 91–296 provides in part that unless expressly limited by later enactment funds appropriated for any fiscal year ending prior to July 1, 1973, for any program under this Act shall remain available for obligation and expenditure for such fiscal year.

[3] Sec. 201 amended by sec. 2(a) of P.L. 90–31, and further amended by sec. 101(a) of P.L. 91–211.

[4] Sec. 513 of the Public Health Service Act authorizes in part, that, such portion as the Secretary may determine, up to 1 per centum, of any appropriation under any provision of the Community Mental Health Centers Act shall be available for evaluation of any program authorized thereunder.

[5] Sec. 202 amended by sec. 102 of P.L. 91–211.

and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted for such State for such next fiscal year. Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it for such purpose for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(b) In accordance with regulations of the Secretary, any State may file with him a request that a specified portion of its allotment under this part be added to the allotment of another State under this part for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a community mental health center in such other State. If it is found by the Secretary that construction of the center with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment as requested by it, would assist in carrying out the purposes of this part, such portion of such State's allotment shall be added to the allotment of the other State under this part to be used for the purpose referred to above.

(c) Upon the request of any State that a specified portion of its allotment under this part be added to the allotment of such State under part C of title I and upon (1) the simultaneous certification to the Secretary by the State agency designated as provided in the State plan approved under this part to the effect that it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion or (2) a showing satisfactory to the Secretary that the need for facilities for the mentally retarded in such State is substantially greater than for community mental health centers, the Secretary shall, subject to such limitations as he may by regulation prescribe, promptly adjust the allotments of such State in accordance with such request and shall notify such State agency and the State agency designated under the State plan approved under part C of title I, and thereafter the allotments as so adjusted shall be deemed the State's allotments for purposes of this part and part C of title I.

REGULATIONS

60 Stat. 1048
42 U.S.C. 291k
64 Stat. 446
42 U.S.C. 218

SEC. 203. Within six months after enactment of this Act, the Secretary shall, after consultation with the Federal Hospital Council (established by section 633 of the Public Health Service Act) and the National Advisory Mental Health Council (established by section 217 of the

Public Health Service Act), by general regulations applicable uniformly to all the States, prescribe—

(1) the kinds of community mental health services needed to provide adequate mental health services for persons residing in a State;

(2) the general manner in which the State agency (designated as provided in the State plan approved under this part) shall determine the priority of projects based on the relative need of different areas, giving special consideration to projects on the basis of the extent to which the centers to be constructed thereby will, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, provide comprehensive mental health services (as determined by the Secretary in accordance with regulations) for mentally ill persons in a particular community or communities or which will be part of or closely associated with a general hospital; 42 U.S.C. 2683

(3) general standards of construction and equipment for centers of different classes and in different types of location; and

(4) that the State plan shall provide for adequate community mental health centers for people residing in the State, and shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor. Such regulations may require that before approval of an application for a center or addition to a center is recommended by a State agency, assurance shall be received by the State from the applicant that there will be made available in such center or addition a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

STATE PLANS

SEC. 204. (a) After such regulations have been issued, any State desiring to take advantage of this part shall submit a State plan for carrying out its purposes. Such State plan must— 42 U.S.C. 2684

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) hereof will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of non-government organizations or groups, and of State agencies, concerned with planning, operation,

or utilization of community mental health centers or other mental health facilities, including representatives of consumers of the services provided by such centers and facilities who are familiar with the need for such services, to consult with the State agency in carrying out such plan;

(4) set forth a program for construction of community mental health centers (A) which is based on a statewide inventory of existing facilities and survey of need; (B) which conforms with the regulations prescribed by the Secretary under section 203(1); and (C) which meets the requirements for furnishing needed services to persons unable to pay therefor, included in regulations prescribed under section 203(4);

(5) set forth the relative need, determined in accordance with the regulations prescribed under section 203(2), for the several projects included in such programs, and provide for the construction, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(6)[6] provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(7)[7] provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of centers which receive Federal aid under this part and, effective July 1, 1969, provide for enforcement of such standards with respect to projects approved by the Secretary under this part after June 30, 1967;

(8) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(9) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(10) provide that the State agency will from time to time, but not less often than annually, review its

[6] Sec. 208(a)(3) of P.L. 91–648 transfers to the U.S. Civil Service Commission all functions, powers, and duties of the Secretary under sec. 204(a)(6) insofar as they relate to the prescription of personnel standards on a merit basis.

[7] Par. 7 of sec. 204 amended by sec. 4(b) of P.L. 90–31.

State plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

APPROVAL OF PROJECTS

SEC. 205. (a) For each project for construction pursuant to a State plan approved under this part, there shall be submitted to the Secretary through the State agency an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such application shall set forth— 42 U.S.C. 2685

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 203(3);

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the community mental health center;

(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and 49 Stat. 1011 64 Stat. 1267 63 Stat. 108

(6) a certification by the State agency of the Federal share for the project.

The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (A) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages and overtime pay; (B) that the plans and specifications

are in accord with the regulations prescribed pursuant to section 203; (C) that the application is in conformity with the State plan approved under section 204 and contains an assurance that in the operation of the center there will be compliance with the applicable requirements of the State plan and of the regulations prescribed under section 203(4) for furnishing needed services for persons unable to pay therefor, and with State standards for operation and maintenance; (D) that the services to be provided by the center, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is to be situated, at least those essential elements of comprehensive mental health services for mentally ill persons which are prescribed by the Secretary in accordance with regulations; and (E) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 203(2). No application shall be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing.

(b) Amendment of any approved application shall be subject to approval in the same manner as an original application.

WITHHOLDING OF PAYMENTS

42 U.S.C. 2686

SEC. 206. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 204(a)(1), finds—

(1) that the State agency is not complying substantially with the provisions required by section 204 to be included in its State plan, or with regulations under this part;

(2) that any assurance required to be given in an application filed under section 205 is not being or cannot be carried out;

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 205; or

(4) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify the State agency that—

(5) no further payments will be made to the State from allotments under this part; or

(6) no further payments will be made from allotments under this part for any project or projects

designated by the Secretary as being affected by the action or inaction referred to in paragraph (1), (2), (3), or (4) of this section,

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

NONDUPLICATION OF GRANTS

SEC. 207.[8] No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1964, and ending June 30, 1973, for construction of any facility described in this title, unless the Secretary determines that funds are not available, under this title to make a grant for the construction of such facility.

58 Stat. 682
42 U.S.C. 201 Note

42 U.S.C. 2687
79 Stat. 427
79 Stat. 428

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## PART B[9]—GRANTS FOR INITIAL COST OF PROFESSIONAL AND TECHNICAL PERSONNEL OF CENTERS

AUTHORIZATION, DURATION, AND AMOUNT OF GRANTS

42 US.C. 2687

SEC. 220.[10] (a) For the purpose of assisting in the es-

[8] Sec. 207 amended by sec. 2(b) of P.L. 90–31, and further amended by sec. 101(b) of P.L. 91–211.

[9] Sec. 2(b) of P.L. 89–105 added new pt. B, secs. 220–224.

[10] Sec. 220 amended by secs. 201 (a) and (b) of P.L. 91–211 and by sec. 301 of P.L. 91–515. Sec. 201(b) of P.L. 91–211 provides:

"(b) In the case of any community mental health center for which a staffing grant was made under section 220 of the Community Mental Health Centers Act before July 1, 1970, the provisions of subsection (b) of section 220 of such Act (as amended by subsection (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsection (b) had been in effect on the date a staffing grant for such center was initially made."

Sec. 301 of P.L. 91–515 added the following provision to sec. 201 of P.L. 91–211:

"(c) In the case of any community mental health center—

"(1) for which a staffing grant was made under part B of the Community Mental Health Centers Act for any period which began on or before June 30, 1970; and

"(2) (A) with respect to which the portion of the costs (as described in section 220(a) of such Act) which may be met from funds under a grant under such part B is increased (by reason of the enactment of the preceding subsections of this section) for any period after June 30, 1970; or

(B) with respect to which the period during which a grant under such part B may be made is extended by reason of the enactment of subsection (a) of this section;

the provisions of section 221(a)(4) of such Act shall be deemed to have been complied with for any period after June 30, 1970, if the Secretary determines that there is satisfactory assurance that the amount of total costs, Federal and non-Federal (as described in sec-

tablishment and initial operation of community mental health centers providing all or part of a comprehensive community mental health program, the Secretary may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations under section 223) of compensation of professional and technical personnel for the initial operation of new community mental health centers or of new services in community mental health centers.

(b) (1) Grants under this section for such costs for any center may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and, except as provided in paragraph (2), such grants with respect to any center may not exceed 75 per centum of such costs for each of the first two years after such first day, 60 per centum of such costs for the third year after such first day, 45 per centum of such costs for the fourth year after such first day, and 30 per centum of such costs for each of the next four years after such first day.

(2) In the case of any such center providing services for persons in an area designated by the Secretary as an urban or rural poverty area, grants under this section for such costs for any such center may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

(c) In making such grants, the Secretary shall take into account the relative needs of the several States for community mental health center programs, their relative financial needs, and their populations.

APPLICATIONS AND CONDITIONS FOR APPROVAL

42 U.S.C 2688a

SEC. 221.[11] (a) Grants under this part with respect to any community mental health center may be made only upon application, and only if—

(1) the applicant is a public or nonprofit private agency or organization which owns or operates the center;

(2) the services to be provided by the center, alone or in conjunction with other facilities owned or op-

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tion 220(a) of such Act), which will be incurred by such center for staffing purposes for any period after June 30, 1970, will not be less than the amount of such total costs for the period which last commenced on or before June 30, 1970, except that the grantee shall not be required to increase the amount contributed as the non-Federal share in the event the amount of the Federal participation is reduced."

[11] Sec. 221 amended by P.L. 91–211, Mar. 13, 1970, as follows:

(a) Sec. 221(a)(4) amended by sec. 203(a).

(b) A new sentence added after paragraph (5) of sec. 221(a) by sec. 203(b).

(c) Sec. 221(b) amended by sec. 204(c).

erated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is situated, at least those essential elements of comprehensive mental health services which are prescribed by the Secretary;

(3) (A) a grant was made under part A of this title to assist in financing the construction of the center or (B) the type of service to be provided as part of such program with the aid of a grant under this part was not previously being provided by the center with respect to which such application is made;

(4) the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided, and (B) Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds, including third party health insurance payments, that would be in the absence of such Federal funds be made available for the program described in paragraph (2) of this subsection and will in no event supplant such State, local, and other non-Federal funds; and

(5) the services to be provided by the center are described in the State mental health plan submitted to the Public Health Service by the State mental health authority in accordance with title III of the Public Health Service Act. 42 U.S.C. 241 et seq.

Notwithstanding the provisions of paragraph (2) of this subsection, the requirement therein with respect to essential elements of comprehensive mental health services shall not apply, in the case of an application for a grant to any center which will provide services in an area designated by the Secretary as an urban or rural poverty area, for the eighteen-month period commencing on the date such application is filed, if the Secretary is satisfied that such center will meet such requirement prior to the end of such period; however, if such center has not by the end of such eighteen-month period met such requirement, payments under any grant (made under such application) to such center shall be suspended until the Secretary determines that the center has met such requirement.

(b)[12] No grant may be made under this part after June 30, 1973, with respect to any community mental health center or with respect to any type of service pro- Restriction

[12] Sec. 221(b) amended by sec. 3(a) of P.L. 90–31.

79 Stat. 428
79 Stat. 429

vided by such a center unless a grant with respect thereto was made under this part prior to July 1, 1973.

42 U.S.C. 2688b

SEC. 222. Payment of grants under this part may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

REGULATIONS

42 U.S.C. 2688c
58 Stat. 682
42 U.S.C. 201 Note

SEC. 223. The Secretary shall, after consultation with the National Advisory Mental Health Council (appointed pursuant to the Public Health Service Act), prescribe general regulations concerning eligibility of centers under this part, determination of eligible costs with respect to which grants may be made, and the terms and conditions (including those specified in section 221) for approving applications under this part.

AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2688d

SEC. 224.[12a, 13] (a) [14] There are hereby authorized to be appropriated $19,500,000 for the fiscal year ending June 30, 1966, $24,000,000 for the fiscal year ending June 30, 1967, $30,000,000 for the fiscal year ending June 30, 1968, $26,000,000 for the fiscal year ending June 30, 1969, $32,000,000 for the fiscal year ending June 30, 1970, $45,000,000 for the fiscal year ending June 30, 1971, $50,000,000 for the fiscal year ending June 30, 1972, and $60,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary to make initial grants to community mental health centers under the provisions of this part. For the fiscal year ending June 30, 1967, and each of the thirteen succeeding years, there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant for the year for which sums are being appropriated under this sentence.

(b)[14] Not to exceed 5 per centum of the amount appropriated for grants pursuant to subsection (a) for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of projects, in areas designated by the Secretary as rural or urban poverty areas, for assessing local needs for mental health services, design-

[12a] See footnote 4 on p. 317.
[13] Sec. 224 amended by sec. 3(b) of P.L. 90–31.
[14] Sec. 224 amended by sec. 202 of P.L. 91–211, Mar. 13, 1970, (1) by inserting (a) immediately after "Sec. 224", and (2) by adding at the end thereof a new subsec. (b). Subsec. 224(a) as redesignated, was further amended by subsec. 204 (a) and (b) of the same P.L.

ing mental health service programs, obtaining local financial and professional assistance and support for community health services, and fostering community involvement in initiating and developing community mental health services. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

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## PART C [15]—ALCOHOLISM

### DECLARATION OF FINDINGS AND PURPOSES

SEC. 240. (a) The Congress hereby finds that— 42 U.S.C. 2688e

(1) Alcoholism is a major health and social problem afflicting a significant proportion of the public, and much more needs to be done by public and private agencies to develop effective prevention and control.

(2) Alcoholism treatment and control programs should whenever possible: (A) be community based, (B) provide a comprehensive range of services, including emergency treatment, under proper medical auspices on a coordinated basis, and (C) be integrated with and involve the active participation of a wide range of public and nongovermental agencies.

(3) The handling of chronic alcoholics within the system of criminal justice perpetuates and aggravates the broad problem of alcoholism whereas treating it as a health problem permits early detection and prevention of alcoholism and effective treatment and rehabilitation, relieves police and other law enforcement agencies of an inappropriate burden that impedes their important work, and better serves the interests of the public.

(b) It is the purpose of this part to help prevent and control alcoholism through authorization of Federal aid in the construction and staffing of facilities for the prevention and treatment of alcoholism.

(c) The Congress further declares that, in addition to the funds provided for under this part, other Federal legislation providing for Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the fields of health should be utilized to help eradicate alcoholism as a major health problem.

### CONSTRUCTION GRANTS

SEC. 241. (a) Grants from appropriations under section 261 may be made for projects for construction of any facilities (including posthospitalization treatment facilities) for the prevention and treatment of alcohol- 42 U.S.C. 2688f

[15] Pt. C added by sec. 301 of P.L. 90–574.

ism, but only to a public or nonprofit private agency or organization and only upon an application (1) which meets the requirements for approval under clauses (1) through (5) and clauses (A) and (B) of section 205(a), and (2) which contains—

(A) a showing of the need, in the area to be served by the applicant, for special facilities for the inpatient or outpatient treatment, or both, of alcoholism;

(B) satisfactory assurance that the services for prevention and treatment of alcoholism to be provided through the facility to be constructed, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated or having an arrangement with the applicant, will be part of a program providing, principally for persons residing in or near the particular community or communities in which such facility is situated, at least those essential elements of comprehensive mental health services and services for the prevention and treatment of alcoholism, including post-institutional aftercare and rehabilitation, that are prescribed by the Secretary;

(C) satisfactory assurance that the application has been approved and recommended by the single State agency designated by the State as being the agency primarily responsible for care and treatment of alcoholics in the State, and, in case this agency is different from the agency designated pursuant to section 204(a)(1), a showing that the application has also been approved and recommended by the agency designated pursuant to section 204(a)(1), and, in case neither of these is the State mental health authority, a showing that the application has been approved and recommended by such authority;

(D) a showing that under regulations of the Secretary prescribing the manner of determining priorities the project is entitled to priority over other projects for treatment of alcoholism, if any, within the State, and is in accordance with such criteria, including the willingness and ability to provide satisfactory alternatives to custodial care, as the Secretary may determine to be appropriate for purposes of this section; and

(E) a showing that adequate provision has been made for compliance with regulations of the Secretary prescribed under section 203(4) relating to furnishing needed services for persons unable to pay therefor and for compliance with State standards for operation and maintenance.

(b)[16] The amount of any such grant with respect to any project shall be such percentage of the cost thereof, but

[16] Sec. 241(b) amended by sec. 302 of P.L. 91–211.

not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area) as the Secretary may determine.

STAFFING GRANTS

SEC. 242. (a) Grants from appropriations under section 261 may be made to any public or nonprofit private agency or organization to assist it in meeting, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the initial operation of new facilities for the prevention and treatment of alcoholism or of new services in existing facilities for the prevention or treatment of alcoholism.

82 Stat. 1008
42 U.S.C. 2688g
2688h, 2688k

(b) [17] (1) Grants under this part for such costs for any facility may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and, except as provided in paragraph (2), such grants with respect to any facility may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day.

(2) In the case of any such facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants with respect to any such facility may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

(c) In making such grants, the Secretary shall take into account the relative needs of the several States for alcoholism programs, the relative financial needs of the applicants, and the relative populations of the areas to be served by the applicants.

(d) A grant under this section may be made only upon an application which meets the requirements for ap-

[17] Sec. 242(b) amended by sec. 303 (a) and (b) of P.L. 91–211; sec. 303(b) stated:
"(b) In the case of any alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotic addicts, for which a staffing grant was made under section 242, 243, or 251 of the Community Mental Health Centers Act before July 1, 1970, the provisions of subsection (b) of sec. 242 of such Act (as amended by subsec. (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsec. (b) had been in effect on the date a staffing grant for such center or facility was initially made."

proval under section 221(a), other than paragraph (3) thereof, and only if (1) a grant was made under part A or section 241 to assist in financing the construction of the facility, or (2) the type of service to be provided with the aid of a grant under this section was not previously being provided by the facility with respect to which such application is made.

SPECIALIZED FACILITIES

SEC. 243. (a)[18] Grants from appropriations under section 261 may also be made to public or nonprofit private agencies or organizations for projects for the construction or leasing of specialized facilities (including facilities for emergency medical services, intermediate care services, or outpatient services, and post-hospitalization treatment facilities) for the treatment of alcoholics requiring care in such facilities, and for the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A or this section or of new services in existing specialized facilities for the treatment of alcoholics.

(b) Grants may be made under subsection (a) only with respect to (1) facilities which are a part of or affiliated with a community mental health center providing at least those essential elements of comprehensive community mental health services which are prescribed by the Secretary, or (2) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of alcoholism.

(c) Grants made under subsection (a) for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

(d)[19] Before a grant may be made under subsection (a) for a project for the construction of a facility for the treatment of alcoholics the Secretary must find that the application for such grant meets the requirement of section 205(a)(5) (relating to the payment of prevailing wages). The amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons

[18] Sec. 243(a) was amended by sec. 332, P.L. 91–616.
[19] Sec. 243(d) amended by sec. 302, P.L. 91–211.

in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

PROJECTS ELIGIBLE UNDER REGULAR PROGRAM

SEC. 244. Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the prevention and treatment of alcoholism. 42 U.S.C. 2688i

PAYMENTS

SEC. 245. Payments of grants under this part may be made in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine. 42 U.S.C. 2688j

DIRECT GRANTS FOR SPECIAL PROJECTS

SEC. 246.[20] The Secretary is authorized during the period beginning July 1, 1970, and ending June 30, 1973, to make grants to any public or nonprofit private agency or organization to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of public health services for the prevention or treatment of alcoholism, or developing in-service training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; (3) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of alcoholism within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (4) programs for treatment and rehabilitation of alcoholics which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such alcoholics.

GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

SEC. 247.[21] (a) The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, may make grants to public and private nonprofit agencies, organizations, and institutions and may enter into contracts with public and private agencies, organizations, and institutions, and individuals—

(1) to conduct demonstration, service, and evaluation projects,

[20] A new sec. 246 added by sec. 304 of P.L. 91–211.
[21] Sec. 247 added by sec. 311 of P.L. 91–616.

(2) to provide education and training,

(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) Projects for which grants or contracts are made under this section shall, whenever possible, be community based, provide a comprehensive range of services, and be integrated with, and involve the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals.

(c)(1) In administering the provisions of this section, the Secretary shall require coordination of all applications for programs in a State.

(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under such section 303. The State shall furnish the applicant a copy of any such evaluation.

(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(D) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to

the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

(d) [21a] To carry out the purposes of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971, $40,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 for the fiscal year ending June 30, 1973.

## Part D—Narcotic Addiction, Drug Abuse, and Drug Dependence Prevention and Rehabilitation [22, 23]

Sec. 251. (a) [24] Grants from appropriations under section 261 may be made to public or nonprofit private agencies and organizations to assist them in meeting the costs of construction of treatment facilities (including posthospitalization treatment facilities) for narcotic addicts and other persons with drug abuse and drug dependence problems within the States, and to assist them in meeting the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A or this part or of new services in existing treatment facilities for narcotic addicts, and other persons with drug abuse and drug dependence problems. 42 U.S.C. 2688k

82 Stat 1009.

(b) [25] The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A except to the extent, in the judgment of the Secretary, special considerations make differences appropriate; but (1) before the Secretary may make a grant under such subsection for the construction of a treatment facility for narcotic addicts and other persons with drug abuse and drug dependence problems he must find that the application for such grant meets the requirement of section 205(a)(5) (relating to the payment of prevailing wages), and (2) the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area); as the Secretary may determine.

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[21a] See footnote 4 on p. 317.
[22] Pt. D added by sec. 302 of P.L. 90–574.
[23] The title of pt. D amended by sec. 1(a)(3) of P.L. 91–513.
[24] Sec. 251(a) amended by sec. 1(a)(1) of P.L. 91–513.
[25] Sec. 251(b) amended by sec. 302 of P.L. 91–211, and further amended by sec. 1(a)(1) of P.L. 91–513.

(c) Grants made under subsection (a) for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

DIRECT GRANTS FOR SPECIAL PROJECTS [26]

SEC. 252.[26, 27] The Secretary is authorized, during the period beginning July 1, 1968, and ending with the close of June 30, 1973, to make grants to any public or nonprofit private agencies and organizations to cover part or all of the cost of (A) developing specialized training programs or materials relating to the provision of public health services for the prevention and treatment of narcotic addiction, drug abuse, and drug dependence or developing in-service training or short-term or refresher courses with respect to the provision of such services; (B) training personnel to operate, supervise, and administer such services; (C) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of narcotic addiction, drug abuse, and drug dependence within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (D) programs for treatment and rehabilitation of narcotic addicts and other persons with drug abuse and drug dependence problems which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such narcotic addicts and other persons with drug abuse and drug dependence problems.

DRUG ABUSE EDUCATION

Grants.
Contract authority.

SEC. 253.[28] (a) The Secretary is authorized to make grants to States and political subdivisions thereof and to public or nonprofit private agencies and organizations, and to enter into contracts with other private agencies and organizations, for—

(1) the collection, preparation, and dissemination of educational materials dealing with the use and abuse of drugs and the prevention of drug abuse, and

(2) the development and evaluation of programs of drug abuse education directed at the general public, school-age children, and special high-risk groups.

(b) The Secretary, acting through the National Institute of Mental Health, shall (1) serve as a focal point for the collection and dissemination of information related to drug abuse; (2) collect, prepare, and disseminate

[26] Sec. 252 amended by subsec. 305(a) of P.L. 91–211, and the title thereof amended by sec. 305(b) of the same P.L.
[27] Sec. 252 further amended by sec. 1(a) of P.L. 91–513.
[28] Sec. 253 added by sec. 1(c) of P.L. 91–513.

materials (including films and other educational devices) dealing with the abuse of drugs and the prevention of drug abuse; (3) provide for the preparation, production, and conduct of programs of public education (including those using films and other educational devices); (4) train professional and other persons to organize and participate in programs of public education in relation to drug abuse; (5) coordinate activities carried on by such departments, agencies, and instrumentalities of the Federal Government as he shall designate with respect to health education aspects of drug abuse; (6) provide technical assistance to State and local health and educational agencies with respect to the establishment and implementation of programs and procedures for public education on drug abuse; and (7) undertake other activities essential to a national program for drug abuse education.

Personnel training.

(c) The Secretary, acting through the National Institute of Mental Health, is authorized to develop and conduct workshops, institutes, and other activities for the training of professional and other personnel to work in the area of drug abuse education.

Appropriation.

(d) [28a] To carry out the purpose sof this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $14,000,000 for the fiscal year ending June 30, 1973.

PROJECTS ELIGIBLE UNDER REGULAR PROGRAM

SEC. 254.[29] Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the treatment of narcotic addicts, and other persons with drug abuse and drug dependence problems.

PAYMENTS

SEC. 255.[30] Payments under this part may be made in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

SPECIAL PROJECTS FOR NARCOTIC ADDICTS AND DRUG DEPENDENT PERSONS

Grants, treatment and rehabilitation.

SEC. 256.[30] (a) The Secretary is authorized to make grants to public or nonprofit private agencies and organizations to cover a portion of the costs of programs for treatment and rehabilitation of narcotic addicts or drug

[28a] See footnote 4 on p. 317.
[29] Former sec. 253 amended by sec. 1(a)(1) of P.L. 91–513, and redesignated as sec. 254 by sec. 1(c) of the same P.L.
[30] Former sec. 254 redesignated as sec. 255 and a new sec. 256 added by sec. 1(c) of P.L. 91–513.

dependent persons which include one or more of the following: (1) Detoxification services or (2) institutional services (including medical, psychological, educational, or counseling services) or (3) community-based aftercare services.

Conditions.

(b) Grants under this section for the costs of any treatment and rehabilitation program—

(1) may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and

Limitation.

(2) (A) except as provided in subparagraph (B), may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day; and

(B) in the case of any such program providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

(c) No application for a grant authorized by this section shall be approved by the Secretary unless such application is forwarded through the State agency responsible for administering the plan submitted pursuant to section 204 of this Act or, if there be a separate State agency, designated by the Governor as responsible for planning, coordinating, and executing the State's efforts in the treatment and rehabilitation of narcotic addicts and drug dependent persons, through such latter agency, which shall submit to the Secretary such comments as it deems appropriate. No application for a grant under this section for a program to provide services for persons in an area in which is located a facility constructed as a new facility after the date of enactment of this section with funds provided under a grant under part A of this part shall be approved unless such application contains satisfactory assurance that, to the extent feasible, such program will be included as part of the programs conducted in or through such facility.

77 Stat. 291
81 Stat. 79
42 U.S.C. 2684

Criteria.

(d) The Secretary shall make grants under this section for projects within the States in accordance with criteria determined by him designed to provide priority for grant applications in States, and in areas within the

States, having the higher percentages of population who are narcotic addicts or drug dependent persons.

(e) There are authorized to be appropriated to carry out this section not to exceed $20,000,000 for the fiscal year ending June 30, 1971; $30,000,000 for the fiscal year ending June 30, 1972; and $35,000,000 for the fiscal year ending June 30, 1973. Appropriation.

## Part E [31]—General Provisions

### Authorization of appropriations for rehabilitation of alcoholics, narcotic addicts, and other persons with drug abuse and drug dependence problems [32]

Sec. 261.[33] (a)[34] There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, and $80,000,000 for the fiscal year ending June 30, 1973, for project grants for construction and staffing of facilities for the prevention and treatment of alcoholism under part C or the prevention and treatment of narcotic addiction, drug abuse, and drug dependence under part D and for grants under section 252 and section 246. Sums so appropriated for any fiscal year shall remain available for obligation until the close of the next fiscal year.

(b) There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next nine fiscal years such sums as may be necessary to continue to make grants for staffing with respect to any project under part C or D for which a staffing grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1973.

(c) Not to exceed 5 per centum of the amount appropriated pursuant to the preceding provisions of this section for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of projects for assessing local needs for programs of services for alcoholics or narcotic addicts, and other persons with drug abuse and drug dependence problems designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvement in initiating and develop-

[31] Pt. E added by sec. 303(a) of P.L. 90–574.

[32] The heading of sec. 261 amended by sec. 1(b)(4) of P.L. 91–513.

[33] Sec. 303(b) of P.L. 90–574 states that there are authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants to continue the projects for which commitments were made under sec. 402(a) of the Narcotic Addict Rehabilitation Act of 1966, but such grants may be made only for the periods specified in such commitments for such projects. Such sec. 402 is repealed.

[34] Sec. 261(a) amended by sec. 301 (a) and (b) of P.L. 91–211, and further amended by sec. 1(b) (1) and (2) of P.L. 91–513. Sec. 261(b) amended by sec. 301(d) of P.L. 91–211. Sec. 261(c) added by sec. 301(c) of P.L. 91–211, and amended by sec. 1(b)(3) of P.L. 91–513.

ing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

PROGRAM EVALUATION

SEC. 262.[35] * * *

PROTECTION OF PERSONAL RIGHTS OF ALCOHOLICS, NARCOTIC ADDICTS, AND OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS [36]

SEC. 263. In making grants to carry out the purposes of parts C and D, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research which is carried out (in whole or in part) with funds provided from appropriations under this part unless such individual explicitly agrees to become a subject of such research.

GRANTS FOR CONSULTATION SERVICES

79 Stat. 428; 82 Stat. 1010
*Ante*, p. 60

SEC. 264.[37] (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, and other persons with drug abuse and drug dependence problems, or facility for mental health of children, to which a grant under part B, C, D, or F, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1970, to assist it in meeting a portion of the costs of compensation of professional and technical personnel who provide consultation services, the Secretary may, with respect to such center or facility, make a grant under this section in addition to such other staffing grant for such center or facility.

(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection—

(1) may be made only for the period applicable to the staffing grant made under part B, C, D, or F, as the case may be, with respect to such center or facility, and

(2) may not exceed whichever of the following is the lower: (A) 15 per centum of the costs with respect to which such other staffing grant is made, or (B) that percentage of such costs which when added to the percentage of such costs covered by such other staffing grant equals 100 per centum.

[35] Effective with respect to appropriations for fiscal years beginning after 6/30/70, sec. 262 is repealed by sec. 401(b)(2) of P.L. 91–296.
[36] The heading of sec. 263 amended by sec. 1(b)(4) of P.L. 91–513.
[37] Sec. 264 added by sec. 501 of P.L. 91–211, and amended by sec. 1(b)(3) of P.L. 91–513.

(c) For purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the next eight fiscal years such sums as may be necessary to continue to make grants under this section for projects which received initial grants under this section from appropriations authorized for any fiscal year ending before July 1, 1973. Appropriations.

DEFINITION OF TECHNICAL PERSONNEL

SEC. 265.[38] For purposes of this title, the term "technical personnel" includes accountants, financial counselors, medical transcribers, allied health professions personnel, dietary and culinary personnel, and any other personnel whose background and education would indicate that they are to perform technical functions in the operation of centers or facilities for which assistance is provided under this title; but such term does not include minor clerical personnel or maintenance or housekeeping personnel.

APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

SEC. 266.[39] Grants made under this title (other than part C thereof) for the cost of construction and for the cost of compensation of professional and technical personnel may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a) of the Public Health Service Act. Grants under part C of this title for such costs may be made only upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism established by such section.

## PART F[40]—MENTAL HEALTH OF CHILDREN

GRANTS FOR TREATMENT FACILITIES

SEC. 271. (a) Grants from appropriations under section 272(a) may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of construction of facilities to provide mental health services for children within the States, and (2) 42 U.S.C. 2681 note.

[38] Sec. 265 added by sec. 502 of P.L. 91–211.
[39] Sec. 266 added by sec. 503(a) of P.L. 91–211, to apply with respect to grants initially made under the Community Mental Health Centers Act from appropriations made for fiscal years beginning after 6/30/70, and amended by sec. 402 of P.L. 91–616.
[40] Part F added by sec. 401 of P.L. 91–211.

to assist them in meeting a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the operation of a facility for mental health of children constructed with a grant made under part A or this part or for the operation of new services for mental health of children in an existing facility.

Conditions.

(b) (1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of children.

(2) No grant shall be made under this section with respect to any facility unless the applicant for such grant provides assurances satisfactory to the Secretary that such facility will make available a full range of treatment, liaison, and follow-up, services (as prescribed by the Secretary) for all children and their families in the service area of such facility who need such services, and will, when so requested, provide consultation and education for personnel of all schools and other community agencies serving children in such area.

(3) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

(c) Grants made under this section for costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

Appropriations

(d)[40a] (1) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for grants under this part for construction and for initial grants under this part for compensation of professional and technical personnel, and for training and evaluation grants under section 272.

(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and each of the next

[40a] See footnote 4 on p. 317.

eight fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which an initial staffing grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1973.

TRAINING AND EVALUATION

SEC. 272. The Secretary is authorized, during the period beginning July 1, 1971, and ending with the close of June 30, 1973, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of children, or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of children within the several States with a view to determining ways and means of improving, extending, and expanding such programs.

## TITLE III—TRAINING OF TEACHERS OF MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN[1]

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### RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

SEC. 302. (a)[2] There is authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1966; $9,000,000 for the fiscal year ending June 30, 1967; $12,000,000 for fiscal year ending June 30, 1968; $14,000,000 for fiscal year ending June 30, 1969, and $18,000,000 for the fiscal year ending June 30, 1970, to enable the Commissioners of Education to make grants to State, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations for research or demonstration projects, and to make contracts with States, State or local educational agencies, public and private institutions of higher learning and other public or private educational or research agencies and organizations, for research and related purposes (as defined in this section) and to conduct research surveys, or demonstrations, relating to education for mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education (hereunder in this section referred to as "handicapped children"). Such grants shall be made in installments in advance or by way of reimbursement, and on such conditions as the Commissioner of Education may determine.

(b) The Commissioner of Education is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to particular fields of education of handicapped children or relating to special services necessary thereto or special problems involved therein.

(c) The Commissioner of Education shall also from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of such a panel before making any such grant in the field in which such experts are competent.

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[1] Title III repealed effective July 1, 1971, by sec. 662, P.L. 91–230 and superseded by Title VI of the same Act.

[2] Sec. 302(a) amended by sec. 156 of P.L. 90–247.

(d) Members of any committee or panel appointed under this section who are not regular full-time employees of the United States shall, while serving on the business of such committee or panel, be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding $75 per day, including travel time; and, while so serving away from their homes or regular place of business, they may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(e) The Commissioner of Education is authorized to delegate any of his functions under this section, except the promulgation of regulations, to any officer or employee of the Office of Education.

(f)[3] For the purposes of this section the Commissioner of Education may make grants to institutions of higher education for the construction, equipping, and operation of a facility for research, or for research and related purposes (as defined in this section).

(g)[3] All laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of any project under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276—276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(h)[3] As used in this section the terms construction and cost of construction include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(i)[3] As used in this section, the term "research and related purposes" means research, research training, surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental schools.

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[3] Secs. 302(f)–(i) added by sec. 5 of P.L. 89–105.

# TITLE IV—GENERAL

## DEFINITIONS

42 U.S.C. 2691

SEC. 401.[1] For purposes of this Act—

(a) The term "State" includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(b) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

(c) The term "community mental health center" means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated.

(d) The terms "nonprofit facility for persons with developmental disabilities", "nonprofit community mental health center", and "nonprofit private institution of higher learning" mean, respectively, a facility for persons with developmental disabilities, a community mental health center, and an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(e)[2] The term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of off-site improvements and the cost of the acquisition of land.

(f) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.

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[1] Sec. 401 amended by P.L. 91–517, to apply with respect to fiscal years beginning after 6/30/70, as follows:
(a) Sec. 401(a) amended by sec. 102(a)(1), P.L. 91–517.
(b) Sec. 401(b) amended by sec. 102(a)(2), P.L. 91–517.
(c) Sec. 401(d) amended by sec. 102(a)(3), P.L. 91–517.

[2] Sec. 401(e) amended by sec. 4(b) of P.L. 90–31.

(g) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(h)[3](1) The term "Federal share" with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government under part C of title I or part A of title II.

(2) The Federal share with respect to any project in the State shall be the amount determined by the appropriate State agency designated in the State plan, but, except as provided in paragraph (3), the Federal share (A) for any project under part C of title I may not exceed 66⅔ per centum of the costs of construction of such project; and (B) for any project under part A of title II may not exceed 66⅔ per centum of the costs of construction of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

(3) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under part C of title I or under part A of title II, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of construction of the project.

(i) The Federal percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that the Federal percentage for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66⅔ per centum.

(j)[4](1) The Federal percentages shall be promulgated by the Secretary between July 1 and September 30 of each

[3] Sec. 401(h) amended by sec. 104 of P.L. 91–211, and sec. 401(h)(2) further amended by sec. 102(a)(4) of P.L. 91–517.
[4] Sec. 401(j)(1) amended by sec. 105 of P.L. 91–211.

even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation; except that the Secretary shall promulgate such percentages as soon as possible after the enactment of this Act, which promulgation shall be conclusive for the fiscal year ending June 30, 1965.

(2) The term "United States" means (but only for purposes of this subsection and subsection (i)) the fifty States and the District of Columbia.

(k) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(l)[5] The term "developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

(m)[5] The term "services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(n)[5] The term "regulations" means (unless the text otherwise indicates) regulations promulgated by the Secretary.

STATE STANDARDS FOR VARIABLE FEDERAL SHARE

SEC. 402.[6] * * *

[5] Sec. 401 amended to add new subsecs. (l), (m), and (n), by sec. 102(b) of P.L. 91–517.

[6] Sec. 402 repealed by sec. 104 of P.L. 91–211.

PAYMENTS FOR CONSTRUCTION

SEC. 403.[7] (a) Upon certification to the Secretary by the State agency, designated as provided in section 134 in the case of a facility for the mentally retarded or persons with other developmental disabilities, or section 204 in the case of a community mental health center, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 136 or section 206, as the case may be, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project. 42 U.S.C. 2693

(b) In case an amendment to an approved application is approved as provided in section 135 or 205 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c)[8](1)[9]At the request of any State, a portion of any allotment or allotments of such State under part A of title II for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under such part; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Amounts made available to any State under this paragraph from its allotment or allotments under part A of title II for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

[7] Sec. 403 amended by sec. 102(b) of P.L. 91–517.
[8] Sec. 403(c) added by sec. 502 of P.L. 90–574.
[9] Sec. 403(c)(1) amended by sec. 103 of P.L. 91–211.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under such part A not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968.

JUDICIAL REVIEW

42 U.S.C. 2694

SEC. 404.[10] If the Secretary refuses to approve any application for a project submitted under section 135 or 205, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 134(c) or 204(b) or section 136 or 206, such State, may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within 60 days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in

72 Stat. 941

section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as pro-

62 Stat. 928

vided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

RECOVERY

42 U.S.C. 2695

SEC. 405.[11] If any facility or center with respect to which funds have been paid under section 403 shall, at any time within twenty years after the completion of construction—

[10] Sec. 404 amended by sec. 102(c) of P.L. 91–517.
[11] Secs. 405 and 406 amended by sec. 102(b) of P.L. 91–517.

(1) be sold or transferred to any person, agency, or organization (A) which is not qualified to file an application under section 135 or 205, or (B) which is not approved as a transferee by the State agency designated pursuant to section 134 (in the case of a facility for the mentally retarded or persons with other developmental disabilities) or section 204 (in case of a community mental health center), or its successor; or

(2) cease to be a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities or community mental health center, as the case may be, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities or such center as a community mental health center,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility or center which has ceased to be public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities or community mental health center, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment.

STATE CONTROL OF OPERATIONS

SEC. 406.[11] Except as otherwise specifically provided, nothing in this Act shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for the mentally retarded or persons with other developmental disabilities or community mental health center with respect to which any funds have been or may be expended under this Act. 42 U.S.C. 2696

* * * * *

RECORDS AND AUDIT

SEC. 408.[12] (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this Act.

NONDUPLICATION

SEC. 409.[13] In determining the amount of any grant under this Act for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

DETERMINATION OF POVERTY AREA

SEC. 410.[14] For purposes of any determination by the Secretary under this Act as to whether any urban or rural area is a poverty area, any such area which would not otherwise be determined to be a poverty area shall, nevertheless, be deemed to be a poverty area if—

(1) such area contains one or more subareas which are characterized as subareas of poverty;

(2) the population of such subarea or subareas constitutes a significant portion of the population of such rural or urban area; and

(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas.

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[12] Sec. 408 added by sec. 3 of P.L. 89–105.
[13] Sec. 409 added by sec. 304 of P.L. 90–574.
[14] Sec. 410 added by sec. 504 of P.L. 91–211.

# TITLE V[1, 2]—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

## GRANTS; AUTHORIZATION OF APPROPRIATIONS

72 Stat. 1777; 77 Stat 294

SEC. 501. (a) The Secretary is authorized to make grants to public and other nonprofit institutions of higher learning to assist them in providing professional or advanced training for personnel engaged or preparing to engage in employment as physical educators or recreation personnel for mentally retarded and other handicapped children (as defined in the first section of the Act of September 6, 1958 (20 U.S.C. 611)), or as supervisors of such personnel, or engaged or preparing to engage in research or teaching in fields related to the physical education or recreation of such children.

Appropriation

(b) For the purpose of making the grants authorized under subsection (a), there is authorized to be appropriated for the fiscal year ending June 30, 1968, $1,000,000; for the fiscal year ending June 30, 1969, $2,000,000; and for the fiscal year ending June 30, 1970, $3,000,000. Any sums appropriated for any such fiscal year and not obligated before the end thereof shall remain available for the succeeding fiscal year for the purpose for which appropriated.

## RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

Appropriation

SEC. 502. (a)(1) There is authorized to be appropriated for the fiscal year ending June 30, 1968, $1,000,000, and for each of the two succeeding fiscal years $1,500,000, to enable the Secretary to make grants to States, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations, for research or demonstration projects relating to physical education or recreation for mentally retarded and other handicapped children (as defined in the first section of the Act of September 6, 1958 (20 U.S.C. 611)).

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[1] Title V added by sec. 7 of P.L. 90–170.
[2] Title V repealed effective July 1, 1971, by sec. 662, P.L. 91–230 and superseded by Title VI of the same act.

(2) Grants under paragraph (1) shall be made in installments, in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

(b) The Secretary shall from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of one such panel before making any grant under this section.

ADVISORY COMMITTEE

SEC. 503. (a) (1) The Secretary shall appoint an advisory committee which shall consist of seven members to advise him on matters of general policy relating to the administration of this title. Three members of such committee shall be individuals from the field of physical education, two members thereof shall be individuals from the field of recreation, and two members thereof shall be individuals with experience or special interest in the education of the mentally retarded or other handicapped children.

(2) The Secretary shall, from time to time, designate one of the members of such committee to serve as the chairman thereof.

(b) Members of the advisory committee and members of any panel appointed pursuant to section 502(b), who are not regular full-time employees of the United States, shall, while serving on the business of such committee or such panel, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

# GRANTS FOR TEACHING IN THE EDUCATION OF HANDICAPPED CHILDREN (ACT OF SEPTEMBER 6, 1958)[1]

[PUBLIC LAW 85–926, AS AMENDED]

AN ACT To encourage expansion of teaching in the education of mentally retarded children through grants to institutions of higher learning and to State educational agencies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Education is authorized to make grants to public or other nonprofit institutions of higher learning to assist them in providing training of professional personnel to conduct training of teachers in fields related to education of mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education (hereinafter in this chapter referred to as "handicapped children"). He is also authorized to make grants to public or other nonprofit institutions of higher learning to assist them in providing professional or advanced training for personnel engaged or preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, or as speech correctionists or other specialists providing special services for education of such children, or engaged or preparing to engage in research in fields related to education of such children. Grants under this section may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships, with such stipends as may be determined by the Commissioner of Education. The Commissioner is also authorized to make grants to public or other nonprofit institutions of higher learning to assist them in establishing and maintaining scholarships, with such stipends as may be determined by the Commissioner, for training personnel preparing to engage in employment as teachers of the deaf.

SEC. 2.[2] The Commissioner of Education is also author-

[1] This act repealed effective July 1, 1971, by sec. 662 of P.L. 91–230 and superseded by title VI of that act.

[2] Secs. 1, 2, 3, 7, and 8 amended by title III of P.L. 88–164. Sec. 8, amended by title I of P.L. 90–247.

ized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to public or other nonprofit institutions of higher learning, fellowships or traineeships for training personnel engaged or preparing to engage in employment as teachers of handicapped children or as supervisors of such teachers. Such grants shall also be available to assist such institutions in meeting the costs of training such personnel.

SEC. 3.[2] Payments of grants pursuant to this chapter may be made by the Commissioner of Education from time to time, in advance or by way of reimbursement, on such conditions as the Commissioner may determine.

SEC. 5. For purposes of this chapter—

(a) The term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools in the State.

(c)[3] The term "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and American Samoa.

SEC. 7.[2, 4] There are authorized to be appropriated for carrying out this chapter $19,500,000 for the fiscal year ending June 30, 1966; $29,500,000 for the fiscal year ending June 30, 1967; $34,000,000 for the fiscal year ending June 30, 1968; $37,500,000 for the fiscal year ending June 30, 1969, and $55,000,000 for the fiscal year ending June 30, 1970.

SEC. 8.[2] (a) There is authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1966; $9,000,000 for fiscal year ending June 30, 1967; $12,000,000, for the fiscal year ending June 30, 1968; $14,000,000 for fiscal year ending June 30, 1969, and $18,000,000 for the fiscal year ending June 30, 1970, to enable the Commissioner of Education to make grants to States, State or local educational agencies, public and nonprofit private institutions of higher learning, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, public and private institutions of higher learning, and other public or private educational or research agencies and organizations,

[3] P.L. 89–105 amended sec. 5 by adding par. (c).
[4] Section 7 amended by sec. 6 of P.L. 90–170.

for research and related purposes (as defined in this section) and to conduct research, surveys, or demonstrations, relating to education for mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education (hereinafter in this section referred to as "handicapped children"). Payments pursuant to grants or contracts under this section may be made in installments, in advance or by way of reimbursement, and on such conditions as the Commissioner of Education may determine.

(b) The Commissioner of Education is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to particular fields of education of handicapped children or relating to special services necessary thereto or special problems involved therein.

(c) The Commissioner of Education shall also from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this section, and shall secure the advice and recommendations of such a panel before making any such grant in the field in which such experts are competent.

(d) Members of any committee or panel appointed under this section who are not regular full-time employees of the United States shall, while serving on the business of such committee or panel, be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding $75 per day, including travel time; and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b—2 of Title 5 for persons in the Government service employed intermittently.

(e) The Commissioner of Education is authorized to delegate any of his functions under this section, except the promulgation of regulations, to any officer or employee of the Office of Education.

(f)[5] For the purposes of this section the Commissioner of Education may make grants to institutions of higher education for the construction, equipping, and operation of a facility for research, or for research and related purposes (as defined in this section).

(g)[5] All laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of any project under this section shall be

[5] P.L. 89–105 amended sec. 8 by adding subsecs. (f)–(i), and by extending authorizations through fiscal year 1969.

paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

(h)[5] As used in this section the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(i)[5] As used in this section, the term "research and related purposes" means research, research training, surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental schools.

# CONTROLLED SUBSTANCES ACT

# CONTROLLED SUBSTANCES ACT

[Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970]

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# TITLE II—CONTROL AND ENFORCEMENT



## PART A—SHORT TITLE; FINDINGS AND DECLARATION; DEFINITIONS

### SHORT TITLE

SEC. 100. This title may be cited as the "Controlled Substances Act".

Citation of title 21 U.S.C. 801 note

### FINDINGS AND DECLARATIONS

SEC. 101. The Congress makes the following findings and declarations:

21 U.S.C. 801

(1) Many of the drugs included within this title have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances, possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.



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18 U.S.C. 1407

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

DEFINITIONS

21 U.S.C. 802

SEC. 102. As used in this title:

(1) The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term "administer" refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner,

whether such application be by injection, inhalation, ingestion, or any other means.

84 Stat. 1243

(3) The term "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(4) The term "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs in the Department of Justice.

(5) The term "control" means to add a drug or other substance, or immediate precursor, to a schedule under part B of this title, whether by transfer from another schedule or otherwise.

*Post*, p. 1247

(6) The term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this title. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1954.

68A Stat. 595
26 U.S.C. 5001

(7) The term "counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms "deliver" or "delivery" mean the actual, constructive, or attempted transfer of a controlled substance, whether or not there exists an agency relationship.

(9) The term "depressant or stimulant substance" means—

(A) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid; or (ii) any derivative of barbituric acid which has been designated by the Secretary as habit forming under section 502(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(d)); or 52 Stat. 1050

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term "dispense" means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling, or compounding necessary to prepare the substance for such delivery. The term "dispenser" means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term "distribute" means to deliver (other than by administering or dispensing) a controlled substance. The term "distributor" means a person who so delivers a controlled substance.

(12) The term "drug" has the meaning given that term by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act. 84 Stat. 1244

(13) The term "felony" means any Federal or State offense classified by applicable Federal or State law as a felony. 52 Stat. 1041; 79 Stat. 234; 21 U.S.C. 321

(14) The term "manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance

or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term "manufacturer" means a person who manufactures a drug or other substance.

(15) The term "marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(16) The term "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium, coca leaves, and opiates.

(B) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates.

(C) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clause (A) or (B).

Such term does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(17) The term "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(18) The term "opium poppy" means the plant of the species Papaver somniferum L., except the seed thereof.

(19) The term "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(21) The term "production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(22) The term "immediate precursor" means a substance— 84 Stat. 1245

(A) which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(B) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(C) the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

(23) The term "Secretary", unless the context otherwise indicates, means the Secretary of Health, Education, and Welfare.

(24) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.

(25) The term "ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

(26) The term "United States", when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

INCREASED NUMBERS OF ENFORCEMENT PERSONNEL

Sec. 103. (a) During the fiscal year 1971, the Bureau of Narcotics and Dangerous Drugs is authorized to add at least 300 agents, together with necessary supporting personnel, to the number of enforcement personnel currently available to it. 21 U.S.C. 803

(b) There are authorized to be appropriated not to exceed $6,000,000 for the fiscal year 1971 and for each fiscal year thereafter to carry out the provisions of subsection (a). Appropriation

## Part B—Authority To Control; Standards and Schedules

AUTHORITY AND CRITERIA FOR CLASSIFICATION OF SUBSTANCES

Sec. 201. (a) The Attorney General shall apply the provisions of this title to the controlled substances listed in the schedules established by section 202 of this title and to any other drug or other substance added to such 21 U.S.C. 811

schedules under this title. Except as provided in subsections (d) and (e), the Attorney General may by rule—

(1) add to such a schedule or transfer between such schedules any drug or other substance if he—

(A) finds that such drug or other substance has a potential for abuse, and

(B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 202 for the schedule in which such drug is to be placed; or

(2) remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.

Hearing opportunity
Rules
80 Stat. 381
5 U.S.C. 551

Rules of the Attorney General under this subsection shall be made on the record after opportunity for a hearing pursuant to the rulemaking procedures prescribed by subchapter II of chapter 5 of title 5 of the United States Code. Proceedings for the issuance, amendment, or repeal of such rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

84 Stat. 1246

Evaluation

(b) The Attorney General shall, before initiating proceedings under subsection (a) to control a drug or other substance or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation, and his recommendations, as to whether such drug or other substance should be so controlled or removed as a controlled substance. In making such evaluation and recommendations, the Secretary shall consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall include recommendations with respect to the appropriate schedule, if any, under which such drug or other substance should be listed. The evaluation and the recommendations of the Secretary shall be made in writing and submitted to the Attorney General within a reasonable time. The recommendations of the Secretary to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substance. If the Attorney General determines that these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or substantial evidence that the drug or other substance should be removed entirely from the schedules, he shall initiate proceedings for control or removal, as the case may be, under subsection (a).

(c) In making any finding under subsection (a) of this section or under subsection (b) of section 202, the Attorney General shall consider the following factors with respect to each drug or other substance proposed to be controlled or removed from the schedules:

(1) Its actual or relative potential for abuse.

(2) Scientific evidence of its pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the drug or other substance.

(4) Its history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) What, if any, risk there is to the public health.

(7) Its psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

Order

(d) If control is required by United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by subsection (a) of this section or section 202(b) and without regard to the procedures prescribed by subsections (a) and (b) of this section.

(e) The Attorney General may, without regard to the findings required by subsection (a) of this section or section 202(b) and without regard to the procedures prescribed by subsections (a) and (b) of this section, place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule with a higher numerical designation. If the Attorney General designates a substance as an immediate precursor and places it in a schedule, other substances shall not be placed in a schedule solely because they are its precursors.

84 Stat. 1247

(f) If, at the time a new-drug application is submitted to the Secretary for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Secretary to the Attorney General.

52 Stat. 1040
21 U.S.C. 321

(g)(1) The Attorney General shall by regulation exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

Dextromethorphan, exception

(2) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this title unless controlled after the date of such enactment pursuant to the foregoing provisions of this section.

SCHEDULES OF CONTROLLED SUBSTANCES

Establishment
21 U.S.C. 812

SEC. 202. (a) There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established on a semiannual basis during the two-year period beginning one year after the date of enactment of this title and shall be updated and republished on an annual basis thereafter.

Placement on schedules, findings required

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on the effective date of this part, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV. 84 Stat. 1248

(c) Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 201, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation: Opiates

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmathadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.

(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
84 Stat. 1249
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Racemoramide.
(42) Trimeperidine.

Opium derivatives

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine–N–Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methylhydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine–N–Oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

Hallucinogenic substances

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.

(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxy amphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marihuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.

## Schedule II

84 Stat. 1250
Substances, vegetable origin or chemical synthesis

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Opiates

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.

(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphan.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone-Intermediate, 4-cyano-2-dimethlyamino-4.4-diphenyl butane.
(13) Moramide-Intermediate, 2-methyl-3 morpholino-1, 1-diphenylpropane-carboxylic acid.
(14) Pethidine.
(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

Methamphetamine

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

84 Stat. 1251

## Schedule III

Stimulants

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Phenmetrazine and its salts.
(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
(4) Methylphenidate.

Depressants

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
(2) Chorexadol.
(3) Glutethimide.
(4) Lysergic acid.
(5) Lysergic acid amide.
(6) Methyprylon.

(7) Phencyclidine.
(8) Sulfondiethylmethane.
(9) Sulfonethylmethane.
(10) Sulfonmethane.

(c) Nalorphine. Nalorphine

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof: Narcotic drugs

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

## Schedule IV

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.

(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

SCHEDULE V

84 Stat. 1252
Narcotic drugs containing non-narcotic active medicinal ingredients

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

Stimulants or depressants containing active medicinal ingredients, exception

(d) The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all or any part of this title if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

84 Stat. 1253

## PART C—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

### RULES AND REGULATIONS

21 U.S.C. 821
Rules and regulations

SEC. 301. The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances.

### PERSONS REQUIRED TO REGISTER

21 U.S.C. 822
Annual registration

SEC. 302. (a) Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dis-

pensing of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

(b) Persons registered by the Attorney General under this title to manufacture, distribute, or dispense controlled substances are authorized to possess, manufacture, distribute, or dispense such substances (including any such activity in the conduct of research) to the extent authorized by their registration and in conformity with the other provisions of this title.

Registration, exceptions

(c) The following persons shall not be required to register and may lawfully possess any controlled substance under this title:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent or employee is acting in the usual course of his business or employment.

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of the controlled substance is in the usual course of his business or employment.

(3) An ultimate user who possesses such substance for a purpose specified in section 102(25).

Ante, p. 1245

Waiver

(d) The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

Separate registration

(e) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

Inspection

(f) The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

REGISTRATION REQUIREMENTS

21 U.S.C. 823

Factors consistent with public interest

Sec. 303. (a) The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

Controls. Importation and bulk manufacture, limitation

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can

produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Compliance Technology

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

Applicants, prior conviction record

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

Experience

(5) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(b) The Attorney General shall register an applicant to distribute a controlled substance in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

Factors consistent to public interest

(1) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

(c) Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to (1) manufacture or distribute controlled substances in schedule I or II other than those specified in the registration, or (2) manufacture any quantity of those controlled substances in excess of the quota assigned pursuant to section 306.

Prohibition

Post, p. 1257

(d) The Attorney General shall register an applicant to manufacture controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule III, IV, or V com-

pounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances, and the existence in the establishment of effective controls against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(e) The Attorney General shall register an applicant to distribute controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

Research

(f) Practitioners shall be registered to dispense or conduct research with controlled substances in schedule II, III, IV, or V if they are authorized to dispense or conduct research under the law of the State in which they practice. Separate registration under this part for practitioners engaging in research with nonnarcotic controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Pharmacies (as distinguished from pharmacists) when engaged in commercial activities, shall be registered to dispense controlled substances in schedule II, III, IV, or V if they are authorized to dispense under the law of the State in which they regularly conduct business. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine qualifications and competency

Pharmacies

Research applications

of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a).

DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION

21 U.S.C. 824

SEC. 304. (a) A registration pursuant to section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Attorney General upon a finding that the registrant—

Post, p. 1285

(1) has materially falsified any application filed pursuant to or required by this title or title III;

(2) has been convicted of a felony under this title or title III or any other law of the United States, or of any State, relating to any substance defined in this title as a controlled substance; or

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances.

(b) The Attorney General may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

Service of order

(c) Before taking action pursuant to this section, or pursuant to a denial of registration under section 303, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States.

80 Stat. 381
5 USC 551

(d) The Attorney General may, in his discretion, suspend any registration simultaneously with the institu-

tion of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(e) The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 306.

Registration, suspension

(f) In the event the Attorney General suspends or revokes a registration granted under section 303, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of sale deposited in court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 511(e).

Post, p. 1277

LABELING AND PACKAGING REQUIREMENTS

21 U.S.C. 825
Symbol

SEC. 305. (a) It shall be unlawful to distribute a controlled substance in a commercial container unless such container, when and as required by regulations of the Attorney General, bears a label (as defined in section 201(k) of the Federal Food, Drug, and Cosmetic Act) containing an identifying symbol for such substance in accordance with such regulations. A different symbol shall be required for each schedule of controlled substances.

52 Stat. 1041
21 U.S.C. 321

(b) It shall be unlawful for the manufacturer of any controlled substance to distribute such substances unless the labeling (as defined in section 201(m) of the Federal Food, Drug, and Cosmetic Act) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a).

65 Stat. 648
21 U.S.C. 353

(c) The Secretary shall prescribe regulations under section 503(b) of the Federal Food, Drug, and Cosmetic Act which shall provide that the label of a drug listed in schedule II, III, or IV shall, when dispensed to or for a

patient, contain a clear, concise warning that it is a crime to transfer the drug to any person other than the patient.

Unlawful distribution

(d) It shall be unlawful to distribute controlled substances in schedule I or II, and narcotic drugs in schedule III or IV, unless the bottle or other container, stopper, covering, or wrapper thereof is securely sealed as required by regulations of the Attorney General.

QUOTAS APPLICABLE TO CERTAIN SUBSTANCES

21 U.S.C. 826 Production quota

SEC. 306. (a) The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

(b) The Attorney General shall limit or reduce individual production quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a). The quota of each registered manufacturer for each basic class of controlled substance in schedule I or II shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

Manufacturing quota

(c) On or before July 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the basic classes of controlled substances in schedules I and II that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

(d) The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a basic class of controlled substance in schedule I or II for any registrant who has not manufactured that basic class of controlled substance during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, he shall consider such factors specified in subsection (c) of this section as may be relevant.

Quota, increase

(e) At any time during the year any registrant who has applied for or received a manufacturing quota for a basic class of controlled substance in schedule I or II may apply for an increase in that quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney General shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

Controlled substances, incidental production, exception
84 Stat. 1258

(f) Notwithstanding any other provisions of this title, no registration or quota may be required for the manufacture of such quantities of controlled substances in schedules I and II as incidentally and necessarily result from the manufacturing process used for the manufacture of a controlled substance with respect to which its manufacturer is duly registered under this title. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances.

Restrictions.

RECORDS AND REPORTS OF REGISTRANTS

21 U.S.C. 827

SEC. 307. (a) Except as provided in subsection (c)—

(1) every registrant under this title shall, on the effective date of this section, or as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand, except that the regulations prescribed under this section shall permit each such biennial inventory (following the initial inventory required by this paragraph) to be prepared on such registrant's regular general physical inventory date (if any) which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply;

Inventory

(2) on the effective date of each regulation of the Attorney General controlling a substance that immediately prior to such date was not a controlled substance, each registrant under this title manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after the effective date of this section, every registrant under this title manufacturing, distributing, or dispensing a controlled substance or substances shall maintain, on a current basis, a complete and accurate record of each such substance manufactured, received, sold, delivered, or otherwise disposed of by him, except that this paragraph shall not require the maintenance of a perpetual inventory.

(b) Every inventory or other record required under this section (1) shall be in accordance with, and contain such relevant information as may be required by, regulations of the Attorney General, (2) shall (A) be maintained separately from all other records of the registrant, or (B) alternatively, in the case of nonnarcotic controlled substances, be in such form that information required by the Attorney General is readily retrievable from the ordinary business records of the registrant, and (3) shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General.

Availability

Nonapplicability.

(c) The foregoing provisions of this section shall not apply—

(1) (A) with respect to narcotic controlled substances in schedules II, III, IV, or V, to the prescribing or administering of such substances by a practitioner in the lawful course of his professional practice; or

(B) with respect to nonnarcotic controlled substances in schedule II, III, IV, or V, to any practitioner who dispenses such substances to his patients, unless the practitioner is regularly engaged in charging his patients, either separately or together with charges for other professional services, for substances so dispensed;

(2) (A) to the use of controlled substances, at establishments registered under this title which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 505(i) or 512(j) of the Federal Food, Drug, and Cosmetic Act;

52 Stat. 1052
76 Stat. 783
82 Stat. 343
21 U.S.C. 355, 360b

(B) to the use of controlled substances, at establishments registered under this title which keep records with respect to such substances, in preclinical research or in teaching; or

(3) to the extent of any exemption granted to any person, with respect to all or part of such provisions, by the Attorney General by or pursuant to regulation on the basis of a finding that the application of such provisions (or part thereof) to such person is not necessary for carrying out the purposes of this title.

(d) Every manufacturer registered under section 303 shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General of every sale, delivery or other disposal by him of any controlled substance, and each distributor shall make such reports with respect to narcotic controlled substances, identifying by the registration number assigned under this title the person or establishment (unless exempt from registration under section 302 (d)) to whom such sale, delivery, or other disposal was made.

(e) Regulations under sections 505(i) and 512(j) of the Federal Food, Drug, and Cosmetic Act, relating to investigational use of drugs, shall include such procedures as the Secretary, after consultation with the Attorney General, determines are necessary to insure the security and accountability of controlled substances used in research to which such regulations apply.

52 Stat. 1052
76 Stat. 783
82 Stat. 343
21 U.S.C. 355, 360b

ORDER FORMS

SEC. 308. (a) It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section.

21 U.S.C. 828
Unlawful distribution

(b) Nothing in subsection (a) shall apply to—

Nonapplicability

(1) the exportation of such substances from the United States in conformity with title III;

Post, p. 1285.

(2) the delivery of such a substance to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution by the owner of the substance to a third person, this paragraph shall not relieve the distributor from compliance with subsection (a).

(c)(1) Every person who in pursuance of an order required under subsection (a) distributes a controlled substance shall preserve such order for a period of two years, and shall make such order available for inspection and copying by officers and employees of the United

Preservation and availability

States duly authorized for that purpose by the Attorney General, and by officers or employees of States or their political subdivisions who are charged with the enforcement of State or local laws regulating the production, or regulating the distribution or dispensing, of controlled substances and who are authorized under such laws to inspect such orders.

Duplicate, preservation and availability

(2) Every person who gives an order required under subsection (a) shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section, and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying by the officers and employees mentioned in paragraph (1) of this subsection.

(d) (1) The Attorney General shall issue forms pursuant to subsections (a) and (c) (2) only to persons validly registered under section 303 (or exempted from registration under section 302(d)). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances.

84 Stat. 1260
Forms, issuance
Fees

(2) The Attorney General may charge reasonable fees for the issuance of such forms in such amounts as he may prescribe for the purpose of covering the cost to the United States of issuing such forms, and other necessary activities in connection therewith.

Unlawful act

(e) It shall be unlawful for any person to obtain by means of order forms issued under this section controlled substances for any purpose other than their use, distribution, dispensing, or administration in the conduct of a lawful business in such substances or in the course of his professional practice or research.

PRESCRIPTIONS

21 U.S.C. 829

Sec. 309. (a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in

52 Stat. 1040
21 U.S.C. 301

accordance with section 503(b) of that Act. Prescriptions shall be retained in conformity with the requirements of section 307 of this title. No prescription for a controlled substance in schedule II may be refilled. 65 Stat. 648 21 U.S.C. 353

(b) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act. Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(c) No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

(d) Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

## Part D—Offenses and Penalties

### prohibited acts a—penalties

Sec. 401. (a) Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally— 21 U.S.C. 841

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Except as otherwise provided in section 405, any person who violates subsection (a) of this section shall be sentenced as follows: 84 Stat. 1261 *Post, p.* 1265

(1) (A) In the case of a controlled substance in schedule I or II which is a narcotic drug, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than $50,000, or both. Any Penalties. *Post, p.* 1285

Special parole term.

sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.

(B) In the case of a controlled substance in schedule I or II which is not a narcotic drug or in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $15,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 3 years, a fine of not more than $10,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 6 years, a fine of not more than $20,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 1 year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than 1 year, a fine of not more than $5,000, or both. If any person commits such a violation after one or more convictions of him for an offense punishable under this paragraph, or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final,

such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $10,000, or both.

Marihuana, simple possession

(4) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in subsections (a) and (b) of section 404.

Special parole term

(c) A special parole term imposed under this section or section 405 may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in this section or section 405 shall be in addition to, and not in lieu of, any other parole provided for by law.

PROHIBITED ACT B—PENALTIES

SEC. 402. (a) It shall be unlawful for any person— 21 U.S.C. 842

(1) who is subject to the requirements of part C to distribute or dispense a controlled substance in violation of section 309;

(2) who is a registrant to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person or to manufacture a controlled substance not authorized by his registration;

(3) who is a registrant to distribute a controlled substance in violation of section 305 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 305 of this title;

(5) to refuse or fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this title or title III; *Post*, p. 1285

(6) to refuse any entry into any premises or inspection authorized by this title or title III;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 304(f) or 511 or to remove or dispose of substances so placed under seal; or *Ante*, p. 1256 *Post*, p. 1276

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this title or title III, any information acquired in the course of an inspection authorized by this title concerning any

method or process which as a trade secret is entitled to protection.

(b) It shall be unlawful for any person who is a registrant to manufacture a controlled substance in schedule I or II which is—

(1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 306; or

(2) in excess of a quota assigned to him pursuant to section 306.

Penalty

(c)(1) Except as provided in paragraph (2), any person who violates this section shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce this paragraph.

Jurisdiction of courts

62 Stat. 934

(2)(A) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (B) of this paragraph, be sentenced to imprisonment of not more than one year or a fine of not more than $25,000, or both.

Penalty

(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of $50,000, or both.

Post, p. 1285

Penalty

Exception

(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

PROHIBITED ACTS C—PENALTIES

21 U.S.C. 843

SEC. 403. (a) It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 308 of this title;

Ante, p. 1259

(2) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this title or title III; or

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance.

(b) It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this title or title III. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

"Communication facility"

(c) Any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine of not more than $30,000, or both; except that if any person commits such a violation after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine of not more than $60,000, or both.

Penalty

PENALTY FOR SIMPLE POSSESSION; CONDITIONAL DISCHARGE AND EXPUNGING OF RECORDS FOR FIRST OFFENSE

SEC. 404. (a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III. Any person who violates this subsection shall be sentenced to a term of imprisonment of not more than

21 U.S.C. 844

Post, p. 1285

1 year, a fine of not more than $5,000, or both, except that if he commits such offense after a prior conviction or convictions under this subsection have become final, he shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $10,000 or both.

(b) (1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this title or title III, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

Nonpublic record, retention

(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter

First offense, expunging of records, order

such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE

SEC. 405. (a) Any person at least eighteen years of age who violates section 401(a)(1) by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b)) punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b), and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule. 21 U.S.C. 845

(b) Any person at least eighteen years of age who violates section 401(a)(1) by distributing a controlled substance to a person under twenty-one years of age after a prior conviction or convictions under subsection (a) of this section (or under section 303(b)(2) of the Federal Food, Drug, and Cosmetic Act as in effect prior to the effective date of section 701(b) of this Act) have become final, is punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b), and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule. 82 Stat. 1361 21 U.S.C. 333

ATTEMPT AND CONSPIRACY

SEC. 406. Any person who attempts or conspires to commit any offense defined in this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy. 21 U.S.C. 846

ADDITIONAL PENALTIES

SEC. 407. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law. 21 U.S.C. 847

CONTINUING CRIMINAL ENTERPRISE

SEC. 408. (a)(1) Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 10 years and which 21 U.S.C. 848 Penalty

may be up to life imprisonment, to a fine of not more than $100,000, and to the forfeiture prescribed in paragraph (2); except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine of not more than $200,000, and to the forfeiture prescribed in paragraph (2).

Forfeiture

(2) Any person who is convicted under paragraph (1) of engaging in a continuing criminal enterprise shall forfeit to the United States—

(A) the profits obtained by him in such enterprise, and

(B) any of his interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(b) For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if—

Post, p. 1285

(1) he violates any provision of this title or title III the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this title or title III—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

(c) In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and section 4202 of title 18 of the United States Code and the Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), shall not apply.

65 Stat. 150
47 Stat. 697

61 Stat. 378
67 Stat. 91
79 Stat. 113
Jurisdiction of courts

(d) The district courts of the United States (including courts in the territories or possessions of the United States having jurisdiction under subsection (a)) shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as they shall deem proper.

DANGEROUS SPECIAL DRUG OFFENDER SENTENCING

21 U.S.C. 849

Sec. 409. (a) Whenever a United States attorney charged with the prosecution of a defendant in a court of the United States for an alleged felonious violation of any provision of this title or title III committed when the defendant was over the age of twenty-one years has rea-

sons to believe that the defendant is a dangerous special drug offender such United States attorney, a reasonable time before trial or acceptance by the court of a plea of guilty or nolo contendere, may sign and file with the court, and may amend, a notice (1) specifying that the defendant is a dangerous special drug offender who upon conviction for such felonious violation is subject to the imposition of a sentence under subsection (b) of this section, and (2) setting out with particularity the reasons why such attorney believes the defendant to be a dangerous special drug offender. In no case shall the fact that the defendant is alleged to be a dangerous special drug offender be an issue upon the trial of such felonious violation, be disclosed to the jury, or be disclosed before any plea of guilty or nolo contendere or verdict of finding of guilty to the presiding judge without the consent of the parties. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, it may order the notice sealed and the notice shall not be subject to subpena or public inspection during the pendency of such criminal matter, except on order of the court, but shall be subject to inspection by the defendant alleged to be a dangerous special drug offender and his counsel.

Notice

Prohibition

(b) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant of such felonious violation, a hearing shall be held, before sentence is imposed, by the court sitting without a jury. The court shall fix a time for the hearing, and notice thereof shall be given to the defendant and the United States at least ten days prior thereto. The court shall permit the United States and counsel for the defendant, or the defendant if he is not represented by counsel, to inspect the presentence report sufficiently prior to the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, diagnostic opinion which might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of the presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant and the United States shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment shall be prima facie evidence of such former judgment or com-

Hearing without jury

Notice

Presentence report, inspection

Penalty

mitment. If it appears by a preponderance of the information, including information submitted during the trial of such felonious violation and the sentencing hearing and so much of the presentence report as the court relies upon, that the defendant is a dangerous special drug offender, the court shall sentence the defendant to imprisonment for an appropriate term not to exceed twenty-five years and not disproportionate in severity to the maximum term otherwise authorized by law for such felonious violation. Otherwise it shall sentence the defendant in accordance with the law prescribing penalties for such felonious violation. The court shall place in the record its findings, including an identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

Sentence

(c) This section shall not prevent the imposition and execution of a sentence of imprisonment for life or for a term exceeding twenty-five years upon any person convicted of an offense so punishable.

(d) Notwithstanding any other provision of this section, the court shall not sentence a dangerous special drug offender to less than any mandatory minimum penalty prescribed by law for such felonious violation. This section shall not be construed as creating any mandatory minimum penalty.

Conditions

(e) A defendant is a special drug offender for purposes of this section if—

(1) the defendant has previously been convicted in courts of the United States or a State or any political subdivision thereof for two or more offenses involving dealing in controlled substances, committed on occasions different from one another and different from such felonious violation, and punishable in such courts by death or imprisonment in excess of one year, for one or more of such convictions the defendant has been imprisoned prior to the commission of such felonious violation, and less than five years have elapsed between the commission of such felonious violation and either the defendant's release, or parole or otherwise, from imprisonment for one such conviction or his commission of the last such previous offense or another offense involving dealing in controlled substances and punishable by death or imprisonment in excess of one year under applicable laws of the United States or a State or any political subdivision thereof; or

(2) the defendant committed such felonious violation as part of a pattern of dealing in controlled substances which was criminal under applicable laws of any jurisdiction, which constituted a substantial source of his income, and in which he manifested special skill or expertise; or

(3) such felonious violation was, or the defendant committed such felonious violation in furtherance of, a conspiracy with three or more other persons to engage in a pattern of dealing in controlled substances which was criminal under applicable laws of any jurisdiction, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or dealing, or give or receive a bribe or use force in connection with such dealing.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of paragraph (1) of this subsection. In support of findings under paragraph (2) of this subsection, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such dealing. For purposes of paragraph (2) of this subsection, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, without reference to exceptions, under section 6(a)(1) of the Fair Labor Standards Act of 1938 for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the defendant's declared adjusted gross income under section 62 of the Internal Revenue Code of 1954. For purposes of paragraph (2) of this subsection, special skill or expertise in such dealing includes unusual knowledge, judgment or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, direction, management, supervision, execution or concealment of such dealing, the enlistment of accomplices in such dealing, the escape from detection or apprehension for such dealing, or the disposition of the fruits or proceeds of such dealing. For purposes of paragraphs (2) and (3) of this subsection, such dealing forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.

Substantial source of income

80 Stat. 838
29 U.S.C. 206

68A Stat. 17
83 Stat. 655
26 U.S.C. 62

Dealing.

(f) A defendant is dangerous for purposes of this section if a period of confinement longer than that provided for such felonious violation is required for the protection of the public from further criminal conduct by the defendant.

Defendant, dangerous

(g) The time for taking an appeal from a conviction for which sentence is imposed after proceedings under this section shall be measured from imposition of the original sentence.

Appeal

Sentence, review

(h) With respect to the imposition, correction, or reduction of a sentence after proceedings under this section, a review of the sentence on the record of the sentencing court may be taken by the defendant or the United States to a court of appeals. Any review of the sentence taken by the United States shall be taken at least five days before expiration of the time for taking a review of the sentence or appeal of the conviction by the defendant and shall be diligently prosecuted. The sentencing court may, with or without motion and notice, extend the time for taking a review of the sentence for a period not to exceed thirty days from the expiration of the time otherwise prescribed by law. The court shall not extend the time for taking a review of the sentence by the United States after the time has expired. A court extending the time for taking a review of the sentence by the United States shall extend the time for taking a review of the sentence or appeal of the conviction by the defendant for the same period. The taking of a review of the sentence by the United States shall be deemed the taking of a review of the sentence and an appeal of the conviction by the defendant. Review of the sentence shall include review of whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused. The court of appeals on review of the sentence may, after considering the record, including the entire presentence report, information submitted during the trial of such felonious violation and the sentencing hearing, and the findings and reasons of the sentencing court, affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing proceedings and imposition of sentence, except that a sentence may be made more severe only on review of the sentence taken by the United States and after hearing. Failure of the United States to take a review of the imposition of the sentence shall, upon review taken by the United States of the correction or reduction of the sentence, foreclose imposition of a sentence more severe than that previously imposed. Any withdrawal or dismissal of review of the sentence taken by the United States shall foreclose imposition of a sentence more severe than that reviewed but shall not otherwise foreclose the review of the sentence or the appeal of the conviction. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence. Any review of the sentence taken by the United States may be dismissed on a showing of the abuse of the right of the United States to take such review.

INFORMATION FOR SENTENCING

SEC. 410. Except as otherwise provided in this title or section 303(a) of the Public Health Service Act, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this title or title III. 21 U.S.C. 850
70 Stat. 929
42 U.S.C. 242a
*Post*, p. 1285

PROCEEDINGS TO ESTABLISH PRIOR CONVICTIONS

SEC. 411. (a) (1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence. 21 U.S.C. 851

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed. Prohibition

(b) If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence. Previous conviction, affirmation or denial

(c) (1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidat- Denial, written response
Hearing

Court without jury
Evidence, introduction

ing the notice given in the information required by subsection (a)(1). The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

Constitution of U.S., violation

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

Sentence, imposition

(d)(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the United States attorney, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

Statute of limitations

(e) No person who stands convicted of an offense under this part may challenge the validity of any prior conviction alleged under this section which occurred more than five years before the date of the information alleging such prior conviction.

## Part E—Administrative and Enforcement Provisions

### PROCEDURES

21 U.S.C. 871
Attorney General, functions, delegation

Sec. 501. (a) The Attorney General may delegate any of his functions under this title to any officer or employee of the Department of Justice.

Regulations

(b) The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this title.

Gifts, etc., acceptance

(c) The Attorney General may accept in the name of the Department of Justice any form of devise, bequest,

gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of controlled substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

EDUCATION AND RESEARCH PROGRAMS OF THE ATTORNEY GENERAL

SEC. 502. (a) The Attorney General is authorized to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this title. Such programs may include— 21 U.S.C. 872

(1) educational and training programs on drug abuse and controlled substances law enforcement for local, State, and Federal personnel;

(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

(3) studies or special projects designed to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this title, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances;

(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

(5) studies or special projects to develop more effective methods to prevent diversion of controlled substances into illegal channels; and

(6) studies or special projects to develop information necessary to carry out his functions under section 201 of this title. *Ante*, p. 1245

(b) The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(c) The Attorney General may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained. Research populations, identification, prohibition

Controlled substances, exception

(d) The Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.

COOPERATIVE ARRANGEMENTS

21 U.S.C. 873

SEC. 503. (a) The Attorney General shall cooperate with local, State, and Federal agencies concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on controlled substance law enforcement for local, State, and Federal personnel;

(4) maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of controlled substance abusers and other controlled substance law offenders, which may be received from Federal, State, and local agencies, and make such information available for Federal, State, and local law enforcement purposes; and

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

Assistance

(b) When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out his functions under this title; except that no such agency or instrumentality shall be required to furnish the name of, or other identifying information about, a patient or research subject whose identity it has undertaken to keep confidential.

Prohibition

ADVISORY COMMITTEES

21 U.S.C. 874

SEC. 504. The Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. Members of the committees may be entitled to receive compensation at the rate of $100 for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the

Appointment

Compensation

Travel expenses, etc.

committees, members of the committees shall be allowed expenses of travel, including per diem instead of subsistance, in accordance with subchapter I of chapter 57 of title 5, United States Code. 80 Stat. 498; 83 Stat. 190 5 U.S.C. 5701

ADMINISTRATIVE HEARINGS

SEC. 505. (a) In carrying out his functions under this title, the Attorney General may hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States. 21 U.S.C. 875

(b) Except as otherwise provided in this title, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5, title 5, United States Code. 80 Stat. 381 5 U.S.C. 551

SUBPENAS

SEC. 506. (a) In any investigation relating to his functions under this title with respect to controlled substances, the Attorney General may subpena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. 21 U.S.C. 876 Exception Fees

(b) A subpena issued under this section may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service. Service

(c) In the case of contumacy by or refusal to obey a subpena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on Refusal to obey subpena

Order

Failure to obey order, penalty Jurisdiction

or of which the subpenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpena. The court may issue an order requiring the subpenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

JUDICIAL REVIEW

21 U.S.C. 877

SEC. 507. All final determinations, findings, and conclusions of the Attorney General under this title shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney General may obtain review of the decision in the United States Court of Appeals for the District of Columbia or for the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

POWERS OF ENFORCEMENT PERSONNEL

21 U.S.C. 878

SEC. 508. Any officer or employee of the Bureau of Narcotics and Dangerous Drugs designated by the Attorney General may—

(1) carry firearms;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpenas, and summonses issued under the authority of the United States;

(3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;

(4) make seizures of property pursuant to the provisions of this title; and

(5) perform such other law enforcement duties as the Attorney General may designate.

SEARCH WARRANTS

21 U.S.C. 879

SEC. 509. (a) A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate issuing the warrant is satisfied that there is prob-

able cause to believe that grounds exist for the warrant and for its service at such time.

Authority to break and enter under certain conditions

(b) Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States magistrate issuing the warrant (1) is satisfied that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and (2) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

21 U.S.C. 880 "Controlled premises"

SEC. 510. (a) As used in this section, the term "controlled premises" means—

(1) places where original or other records or documents required under this title are kept or required to be kept, and

(2) places, including factories, warehouses, or other establishments, and conveyances where persons registered under section 303 (or exempted from registration under section 302(d)) may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of controlled substances.

(b)(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this title and otherwise facilitating the carrying out of his functions under this title, the Attorney General is authorized, in accordance with this section, to enter controlled premises and to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Attorney General. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) a written notice of his inspection authority (which notice in the case of an inspection requiring, or in fact supported by, an administrative inspection warrant shall consist of

such warrant), shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right—

(A) to inspect and copy records, reports, and other documents required to be kept or made under this title;

(B) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs and other substances or materials, containers, and labeling found therein, and, except as provided in paragraph (5) of this subsection, all other things therein (including records, files, papers, processes, controls, and facilities) appropriate for verification of the records, reports, and documents referred to in clause (A) or otherwise bearing on the provisions of this title; and

(C) to inventory any stock of any controlled substance therein and obtain samples of any such substance.

(4) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data; or

(C) pricing data.

(c) A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpena issued in accordance with section 506, nor for entries and administrative inspections (including seizures of property)—

(1) with the consent of the owner, operator, or agent in charge of the controlled premises;

(2) in situations presenting imminent danger to health or safety;

(3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking; or

(5) in any other situations where a warrant is not constitutionally required.

Administrative inspection warrants, issuance and execution

(d) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the

purpose of conducting administrative inspections authorized by this title or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant. "Probable cause"

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b) (2) to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

Warrants, filing

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

FORFEITURES

21 U.S.C. 881

SEC. 511. (a) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this title.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this title.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2), except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this title or title III; and

*Post*, p. 1285

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this title.

(b) Any property subject to forfeiture to the United States under this title may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having

jurisdiction over the property, except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this title;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property has been used or is intended to be used in violation of this title.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

Property, custody of Attorney General

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under the provisions of this title, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this title by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Whenever property is forfeited under this title the Attorney General may—

(1) retain the property for official use;

(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, but the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising and court costs;

(3) require that the General Services Administration take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General).

Controlled substances, forfeiture

(f) All controlled substances in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this title shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(g) (1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this title, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

INJUNCTIONS

21 U.S.C. 882 Jurisdiction of courts

SEC. 512. (a) The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this title.

(b) In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

28 U.S.C. app.

ENFORCEMENT PROCEEDINGS

21 U.S.C. 883
Notice

SEC. 513. Before any violation of this title is reported by the Director of the Bureau of Narcotics and Dangerous Drugs to any United States attorney for institution of a criminal proceeding, the Director may require that the person against whom such proceeding is contemplated be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

IMMUNITY AND PRIVILEGE

21 U.S.C. 884
Refusal to testify, prohibition

SEC. 514. (a) Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this title, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

Order

(b) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

(c) A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

BURDEN OF PROOF; LIABILITIES

21 U.S.C. 885

SEC. 515. (a)(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this title in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this title, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

*Ante*, p. 1264

(2) In the case of a person charged under section 404 (a) with the possession of a controlled substance, any label identifying such substance for purposes of section 503(b)(2) of the Federal Food, Drug, and Cosmetic Act shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

65 Stat. 648
21 U.S.C. 353

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this title, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

(c) The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this title shall be on the persons engaged in such use.

Criminal liability, prohibition, exception
62 Stat. 803

(d) Except as provided in sections 2234 and 2235 of title 18, United States Code, no civil or criminal liability shall be imposed by virtue of this title upon any duly authorized Federal officer lawfully engaged in the enforcement of this title, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

PAYMENTS AND ADVANCES

21 U.S.C. 886
Informers, payment

SEC. 516. (a) The Attorney General is authorized to pay any person, from funds appropriated for the Bureau of Narcotics and Dangerous Drugs, for information concerning a violation of this title, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

84 Stat. 1280

(b) Moneys expended from appropriations of the Bureau of Narcotics and Dangerous Drugs for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Bureau.

(c) The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this title. Funds, advancement, authority of Attorney General

## Part F—Advisory Commission

### Establishment of Commission on Marihuana and Drug Abuse

Sec. 601. (a) There is established a commission to be known as the Commission on Marihuana and Drug Abuse (hereafter in this section referred to as the "Commission"). The Commission shall be composed of— 21 U.S.C. 801 note

Membership

(1) two Members of the Senate appointed by the President of the Senate;

(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) nine members appointed by the President of the United States.

At no time shall more than one of the members appointed under paragraph (1), or more than one of the members appointed under paragraph (2), or more than five of the members appointed under paragraph (3) be members of the same political party.

(b) (1) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Seven members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Quorum

(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Members of the Commission from private life shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. Travel expenses, etc.

Compensation

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof. Meetings

(c) (1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. Personnel

80 Stat. 443, 467
5 U.S.C. 5101, 5331
35 F. R. 6247,
Experts and consultants
80 Stat. 416
Travel expenses etc.
80 Stat. 499; 83 Stat. 190

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $75 per diem, including travel time. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

Marihuana, study

(d)(1) The Commission shall conduct a study of marihuana including, but not limited to, the following areas:

(A) the extent of use of marihuana in the United States to include its various sources, the number of users, number of arrests, number of convictions, amount of marihuana seized, type of user, nature of use;

(B) an evaluation of the efficacy of existing marihuana laws;

(C) a study of the pharmacology of marihuana and its immediate and long-term effects, both physiological and psychological;

(D) the relationship of marihuana use to aggressive behavior and crime;

(E) the relationship between marihuana and the use of other drugs; and

(F) the international control of marihuana.

Report to President and Congress

(2) Within one year after the date on which funds first become available to carry out this section, the Commission shall submit to the President and the Congress a comprehensive report on its study and investigation under this subsection which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

Drug abuse, study and investigation
Interim reports
Final reports
Final report to President and Congress
Termination
Expenditures, limitation

(e) The Commission shall conduct a comprehensive study and investigation of the causes of drug abuse and their relative significance. The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommenda-

tions for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

(f) Total expenditures of the Commission shall not exceed $1,000,000.

## Part G—Conforming, Transitional and Effective Date, and General Provisions

### Repeals and conforming amendments

Repeals
79 Stat. 227, 232, 228; 82 Stat. 1361

Sec. 701. (a) Sections 201(v), 301(q), and 511 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (v), 331(q), 360(a) are repealed.

Penalties
82 Stat. 1361

(b) Subsections (a) and (b) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) are amended to read as follows:

21 U.S.C. 333(a) (b)

"Sec. 303. (a) Any person who violates a provision of section 301 shall be imprisoned for not more than one year or fined not more than $1,000, or both.

"(b) Notwithstanding the provisions of subsection (a) of this section, if any person commits such a violation after a conviction of him under this section has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $10,000 or both."

79 Stat. 233

(c) Section 304(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(a)(2)) is amended (1) by striking out clauses (A) and (D), (2) by striking out "of such depressant or stimulant drug or" in clause (C), (3) by adding "and" after the comma at the and of clause (C), and (4) by redesignating clauses (B), (C), and (E) as clauses (A), (B), and (C), respectively.

79 Stat. 233

(d) Section 304(d)(3)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(d)(3)(iii)) is amended by striking out "depressant or stimulant drugs or".

76 Stat. 794; 79 Stat. 231

(e) Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended (1) in subsection (a) by striking out paragraph (2), by inserting "and" at the end of paragraph (1), and by redesignating paragraph (3) as paragraph (2); (2) by striking out "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug" in the first sentence of subsection (b); (3) by striking out the last sentence of subsection (b); (4) by striking out "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug" in the first sentence of subsection (c); (5) by striking out the last sentence of subsection (c); (6) by striking out "(1)" in subsection (d) and by inserting a period after "drug or drugs" in that subsection and deleting the

remainder of that subsection; and (7) by striking out "AND CERTAIN WHOLESALERS" in the section heading.

(f) Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by striking out "to depressant or stimulant drugs or" in subsection (e).

79 Stat. 234

(g) Section 201(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)(2)) is amended by inserting a period after "Canal Zone" the first time these words appear and deleting all thereafter in such section 201(a)(2).

76 Stat. 796
82 Stat. 1362

(h) The last sentence of section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) is amended (1) by striking out "This paragraph" and inserting in lieu thereof "Clause (2) of the third sentence of this paragraph,", and (2) by striking out "section 2 of the Act of May 26, 1922, as amended (U.S.C. 1934, edition, title 21, sec. 173)" and inserting in lieu thereof "the Controlled Substances Import and Export Act".

52 Stat. 1058

(i)(1) Section 1114 of title 18, United States Code, is amended by striking out "the Bureau of Narcotics" and inserting in lieu thereof "the Bureau of Narcotics and Dangerous Drugs".

65 Stat. 721

(2) Section 1952 of such title is amended—

75 Stat. 498
18 U.S.C. 1952

(A) by inserting in subsection (b)(1) "or controlled substances (as defined in section 102(6) of the Controlled Substances Act)" immediately following "narcotics"; and

(B) by striking out "or narcotics" in subsection (c).

(j) Subsection (a) of section 302 of the Public Health Service Act (42 U.S.C. 242(a)) is amended to read as follows:

Drugs, study
58 Stat. 692

"SEC. 302. (a) In carrying out the purposes of section 301 with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act and Controlled Substances Import and Export Act, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts."

Ante, p. 1242
Post, p. 1285

Report to Attorney General

PENDING PROCEEDINGS

SEC. 702. (a) Prosecutions for any violation of law occurring prior to the effective date of section 701 shall not be affected by the repeals or amendments made by such section, or abated by reason thereof. 21 U.S.C. 321 note

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 701 shall not be affected by the repeals or amendments made by such section, or abated by reason thereof.

(c) All administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on the date of enactment of this Act shall be continued and brought to final determination in accord with laws and regulations in effect prior to such date of enactment. Where a drug is finally determined under such proceedings to be a depressant or stimulant drug, as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act, such drug shall automatically be controlled under this title by the Attorney General without further proceedings and listed in the appropriate schedule after he has obtained the recommendation of the Secretary. Any drug with respect to which such a final determination has been made prior to the date of enactment of this Act which is not listed in section 202 within schedules I through V shall automatically be controlled under this title by the Attorney General without further proceedings, and be listed in the appropriate schedule, after he has obtained the recommendations of the Secretary. Ante, p. 1281 Ante, p. 1247

PROVISIONAL REGISTRATION

SEC. 703. (a) (1) Any person who— 21 U.S.C. 822 note

(A) is engaged in manufacturing, distributing, or dispensing any controlled substance on the day before the effective date of section 302, and

(B) is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act or under section 4722 of the Internal Revenue Code of 1954, Ante, p. 1282 68A Stat. 555

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 303 for the manufacture, distribution, or dispensing (as the case may be) of controlled substances.

(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of section 303 of this title.

(b) The provisions of section 304, relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

(1) the date on which such person has registered with the Attorney General under section 303 or has had his registration denied under such section, or

84 Stat. 1284

(2) such date as may be prescribed by the Attorney General for registration of manufacturers, distributors, or dispensers, as the case may be,

whichever occurs first.

EFFECTIVE DATES AND OTHER TRANSITIONAL PROVISIONS

21 U.S.C. 801 note

SEC. 704. (a) Except as otherwise provided in this section, this title shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment.

(b) Parts A, B, E, and F of this title, section 702, this section, and sections 705 through 709, shall become effective upon enactment.

Ante, p. 1256

(c) Sections 305 (relating to labels and labeling), and 306 (relating to manufacturing quotas) shall become effective on the date specified in subsection (a) of this section, except that the Attorney General may by order published in the Federal Register postpone the effective date of either or both of these sections for such period as he may determine to be necessary for the efficient administration of this title.

Publication in Federal Register

CONTINUATION OF REGULATIONS

21 U.S.C. 801 note

SEC. 705. Any orders, rules, and regulations which have been promulgated under any law affected by this title and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed.

SEVERABILITY

21 U.S.C. 901

SEC. 706. If a provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

SAVING PROVISION

21 U.S.C. 902

SEC. 707. Nothing in this Act, except this part and, to the extent of any inconsistency, sections 307(e) and 309 of this title, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act.

52 Stat. 1040
21 U.S.C. 301

APPLICATION OF STATE LAW

SEC. 708. No provision of this title shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this title and that State law so that the two cannot consistently stand together. 21 U.S.C. 903

APPROPRIATIONS AUTHORIZATIONS

SEC. 709. There are authorized to be appropriated for expenses of the Department of Justice in carrying out its functions under this title (except section 103) not to exceed $60,000,000 for the fiscal year ending June 30, 1972, $70,000,000 for the fiscal year ending June 30, 1973, and $90,000,000 for the fiscal year ending June 30, 1974. 21 U.S.C. 904

Ante, p. 1245

# CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

# CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

[Title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970]

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# TITLE III—IMPORTATION AND EXPORTATION; AMENDMENTS AND REPEALS OF REVENUE LAWS

### SHORT TITLE

21 U.S.C. 951 note
Citation of title

SEC. 1000. This title may be cited as the "Controlled Substances Import and Export Act".

## PART A—IMPORTATION AND EXPORTATION

### DEFINITIONS

21 U.S.C. 951

SEC. 1001. (a) For purposes of this part—

(1) The term "import" means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term "customs territory of the United States" has the meaning assigned to such term by general headnote 2 to the Tariff Schedules of the United States (19 U.S.C. 1202).

77A Stat. 11
Ante, p. 1242

(b) Each term defined in section 102 of title II shall have the same meaning for purposes of this title as such term has for purposes of title II.

### IMPORTATION OF CONTROLLED SUBSTANCES

21 U.S.C. 952
Unlawful acts

SEC. 1002. (a) It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of title II, or any narcotic drug in schedule III, IV, or V of title II, except that—

Exceptions

(1) such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

(2) such amounts of any controlled substance in schedule I or II or any narcotic drug in schedule III, IV, or V that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States—

(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate, or

(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303,

Ante, p. 1253

may be so imported under such regulations as the Attorney General shall prescribe. No crude opium may be so imported for the purpose of manufacturing heroin or smoking opium.

(b) It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V, unless such nonnarcotic controlled substance—

(1) is imported for medical, scientific or other legitimate uses, and

(2) is imported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

(c) In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a), the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

EXPORTATION OF CONTROLLED SUBSTANCES

SEC. 1003. (a) It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless—

21 U.S.C. 953
Unlawful acts

(1) it is exported to a country which is a party to—

(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

38 Stat. 1912
61 Stat. 2230

(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the

48 Stat. 1543
62 Stat. 1796

distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or

2 U.S.T. 1629

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961;

18 U.S.T. 1407

(2) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(3) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

(b) Notwithstanding subsection (a), the Attorney General may authorize any narcotic drug (including crude opium and coca leaves) in schedule I, II, III, or IV to be exported from the United States to a country which is a party to any of the international instruments mentioned in subsection (a) if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

Ante, p. 1248

(c) It shall be unlawful to export from the United States any nonnarcotic controlled substance in schedule I or II unless—

84 Stat. 1287

(1) it is exported to a country which has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

(2) the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(3) substantial evidence is furnished to the Attorney General that (A) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, (B) it will not be exported from such country, and (C) there is an actual need for the controlled substance for medical, scientific, or other legitimate uses within the country; and

(4) a permit to export the controlled substance in each instance has been issued by the Attorney General.

(d) Notwithstanding subsection (c), the Attorney General may authorize any nonnarcotic controlled substance in schedule I or II to be exported from the United States if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose. *Ante*, p. 1248

(e) It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substance in schedule V unless—

(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination;

(2) a special controlled substance invoice, in triplicate, accompanies the shipment setting forth such information as the Attorney General may prescribe to identify the parties to the shipment and the means of shipping, and

(3) two additional copies of the invoice are forwarded to the Attorney General before the controlled substance is exported from the United States.

TRANSSHIPMENT AND IN-TRANSIT SHIPMENT OF CONTROLLED SUBSTANCES

SEC. 1004. Notwithstanding sections 1002, 1003, and 1007— 21 U.S.C. 954

(1) A controlled substance in schedule I may—

(A) be imported into the United States for transshipment to another country, or

(B) be transferred or transshipped from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation,

if and only if it is so imported, transferred, or transshipped (i) for scientific, medical, or other legitimate purposes in the country of destination, and (ii) with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request).

(2) A controlled substance in schedule II, III, or IV may be so imported, transferred, or transshipped if and only if advance notice is given to the Attorney General in accordance with regulations of the Attorney General.

POSSESSION ON BOARD VESSELS, ETC., ARRIVING IN OR DEPARTING FROM UNITED STATES

21 U.S.C. 955

SEC. 1005. It shall be unlawful for any person to bring or possess on board any vessel or aircraft, or on board any vehicle of a carrier, arriving in or departing from the United States or the customs territory of the United States, a controlled substance in schedule I or II or a narcotic drug in schedule III or IV, unless such substance or drug is a part of the cargo entered in the manifest or part of the official supplies of the vessel, aircraft, or vehicle.

84 Stat. 1288

*Ante*, p. 1248

EXEMPTION AUTHORITY

21 U.S.C. 956

SEC. 1006. (a) The Attorney General may by regulation exempt from sections 1002 (a) and (b), 1003, 1004, and 1005 any individual who has a controlled substance (except a substance in schedule I) in his possession for his personal medical use, or for administration to an animal accompanying him, if he lawfully obtained such substance and he makes such declaration (or gives such other notification) as the Attorney General may by regulation require.

(b) The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance listed in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all or any part of this title if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

PERSONS REQUIRED TO REGISTER

21 U.S.C. 957

SEC. 1007. (a) No person may—

(1) import into the customs territory of the United States from any place outside thereof (but within the United States), or import into the United States from any place outside thereof, any controlled substance, or

(2) export from the United States any controlled substance in schedule I, II, III, or IV,

unless there is in effect with respect to such person a registration issued by the Attorney General under section 1008, or unless such person is exempt from registration under subsection (b).

(b) (1) The following persons shall not be required to register under the provisions of this section and may lawfully possess a controlled substance:

(A) An agent or an employee of any importer or

exporter registered under section 1008 if such agent or employee is acting in the usual course of his business or employment.

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment.

(C) An ultimate user who possesses such substance for a purpose specified in section 102(25) and in conformity with an exemption granted under section 1006(a).

(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances for purposes of importation and exportation. *Ante*, p. 1245

REGISTRATION REQUIREMENTS 84 Stat. 1289

SEC. 1008. (a) The Attorney General shall register an applicant to import or export a controlled substance in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this section. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 303(a) shall be considered. 21 U.S.C. 958 Ante, p. 1253

(b) Registration granted under subsection (a) of this section shall not entitle a registrant to import or export controlled substances in schedule I or II other than those specified in the registration.

(c) The Attorney General shall register an applicant to import a controlled substance in schedule III, IV, or V or to export a controlled substance in schedule III or IV, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (6) of section 303(d) shall be considered.

(d) No registration shall be issued under this part for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, section 302(f), 304, 305, and 307 shall apply to persons registered under this section to the same extent such sections apply to persons registered under section 303. Ante, pp. 1253–1258

(e) The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration of importers and exporters of controlled substances under this section. Rules and regulations

(f) Persons registered by the Attorney General under this section to import or export controlled substances may import or export (and, for the purpose of so importing

or exporting, may possess) such substances to the extent authorized by their registration and in conformity with the other provisions of this title and title II.

(g) A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances.

(h) Except in emergency situations as described in section 1002(a)(2)(A), prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, the Attorney General shall give manufacturers holding registration for the bulk manufacture of the substance an opportunity for a hearing.

MANUFACTURE OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION

21 U.S.C. 959

SEC. 1009. It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II—

(1) intending that such substance be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

84 Stat. 1290

PROHIBITED ACTS A—PENALTIES

21 U.S.C. 960

SEC. 1010. (a) Any person who—

(1) contrary to section 1002, 1003, or 1007, knowingly or intentionally imports or exports a controlled substance,

(2) contrary to section 1005, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or

(3) contrary to section 1009, manufactures or distributes a controlled substance,

shall be punished as provided in subsection (b).

(b)(1) In the case of a violation under subsection (a) with respect to a narcotic drug in schedule I or II, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $25,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than three years in addition to such term of imprisonment.

Ante, p. 1248

(2) In the case of a violation under subsection (a) with respect to a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall be imprisoned not more than five years, or be fined not more than $15,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, in addition to such term of imprisonment, include (A) a special parole term of not less than two years if such controlled substance is in schedule I, II, III, or (B) a special parole term of not less than one year if such controlled substance is in schedule IV.

(c) A special parole term imposed under this section or section 1012 may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. The special term provided for in this section and in section 1012 is in addition to, and not in lieu of, any other parole provided for by law.

PROHIBITED ACTS B—PENALTIES

SEC. 1011. Any person who violates section 1004 shall be subject to the following penalties: 21 U.S.C. 961

(1) Except as provided in paragraph (2), any such person shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. Sections 402 (c) (1) and (c) (3) shall apply to any civil penalty assessed under this paragraph. Ante, p. 1262

(2) If such a violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally and the trier of fact specifically finds that the violation was so committed, such person shall be sentenced to imprisonment for not more than one year or a fine of not more than $25,000 or both.

SECOND OR SUBSEQUENT OFFENSES

SEC. 1012. (a) Any person convicted of any offense under this part is, if the offense is a second or subsequent offense, punishable by a term of imprisonment twice that otherwise authorized, by twice the fine otherwise authorized, or by both. If the conviction is for an offense punishable under section 1010(b), and if it is the offender's second or subsequent offense, the court shall impose, in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized. 21 U.S.C. 962 84 Stat. 1291

(b) For purposes of this section, a person shall be

considered convicted of a second or subsequent offense if, prior to the commission of such offense, one or more prior convictions of him for a felony under any provision of this title or title II or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final.

Ante, p. 1242

(c) Section 411 shall apply with respect to any proceeding to sentence a person under this section.

Ante, p. 1269

ATTEMPT AND CONSPIRACY

21 U.S.C. 963

SEC. 1013. Any person who attempts or conspires to commit any offense defined in this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

ADDITIONAL PENALTIES

21 U.S.C. 964

SEC. 1014. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

APPLICABILITY OF PART E OF TITLE II

21 U.S.C. 965
*Ante*, p. 1270

SEC. 1015. Part E of title II shall apply with respect to functions of the Attorney General (and of officers and employees of the Bureau of Narcotics and Dangerous Drugs) under this title, to administrative and judicial proceedings under this title, and to violations of this title, to the same extent that such part applies to functions of the Attorney General (and such officers and employees) under title II, to such proceedings under title II, and to violations of title II. For purposes of the application of this section to section 510, any reference in such section 510 to "this title" shall be deemed to be a reference to title III, any reference to section 303 shall be deemed to be a reference to section 1008, and any reference to section 302(d) shall be deemed to be a reference to section 1007(b)(2).

*Ante*, p. 1274
*Ante*, p. 1285
*Ante*, p. 1253

AUTHORITY OF SECRETARY OF TREASURY

21 U.S.C. 966

SEC. 1016. Nothing in this Act shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

## PART B—AMENDMENTS AND REPEALS, TRANSITIONAL AND EFFECTIVE DATE PROVISIONS

REPEALS

SEC. 1101. (a) The following provisions of law are repealed:

(1) The Act of February 23, 1887 (21 U.S.C. 191–193). 24 Stat. 409

(2) The Narcotic Drugs Import and Export Act (21 U.S.C. 171, 173, 174–184, 185). 38 Stat. 275; 53 Stat. 1262

(3) The Act of March 28, 1928 (31 U.S.C. 529a).

(4) Sections 2(b), 6, 7, and 8 of the Act of June 14, 1930 (21 U.S.C. 162(b), 173a, 197, 198). 46 Stat. 585; 70 Stat. 575

(5) The Act of July 3, 1930 (21 U.S.C. 199). 84 Stat. 1292; 46 Stat. 850

(6) Section 6 of the Act of March 28, 1928 (31 U.S.C. 529g). 53 Stat. 1263

(7) The Opium Poppy Control Act of 1942 (21 U.S.C. 188–188n). 56 Stat. 1045

(8) Section 15 of the Act of August 1, 1956 (48 U.S.C. 1421m). 70 Stat. 910

(9) The Act of July 11, 1941 (21 U.S.C. 184a). 55 Stat 584

(10) The Narcotics Manufacturing Act of 1960 (21 U.S.C. 501–517). 74 Stat. 55

(b) (1) (A) Chapter 68 of title 18 of the United States Code (relating to narcotics) is repealed. 70 Stat. 572; 18 U.S.C. 1401–1405

(B) The item relating to such chapter 68 in the analysis of part I of such title 18 is repealed.

(2) (A) Section 3616 of title 18 of the United States Code (relating to use of confiscated motor vehicles) is repealed. 62 Stat. 840

(B) The item relating to such section 3616 in the analysis of chapter 229 of such title 18 is repealed. 68A Stat. 549; 26 U.S.C. 4701–4776

(3) (A) Subchapter A of chapter 39 of the Internal Revenue Code of 1954 (relating to narcotic drugs and marihuana) is repealed.

(B) The table of subchapters of such chapter 39 is amended by striking out

"SUBCHAPTER A. Narcotic drugs and marihuana."

(4) (A) Sections 7237 (relating to violation of laws relating to narcotic drugs and to marihuana) and 7238 (relating to violation of laws relating to opium for smoking) of the Internal Revenue Code of 1954 are repealed. 70 Stat. 568; 80 Stat. 1449; 26 U.S.C. 7237, 7238

(B) The table of sections of part II of subchapter A of chapter 75 of the Internal Revenue Code of 1954 is amended by striking out the items relating to such sections 7237 and 7238.

(5) (A) Section 7491 of the Internal Revenue Code of 1954 (relating to burden of proof of exemptions in case of marihuana offenses) is repealed. 26 U.S.C. 7491

(B) The table of sections for subchapter E of chapter 76 of the Internal Revenue Code of 1954 is amended by striking out the item relating to such section 7491.

CONFORMING AMENDMENTS

SEC. 1102. (a) Section 4901(a) of the Internal Revenue Code of 1954 is amended by striking out the comma immediately before "4461" and inserting in lieu thereof 26 U.S.C. 4901(a); 79 Stat. 149

"or", and by striking out ", 4721 (narcotic drugs), or 4751 (marihuana)".

(b) Section 4905(b)(1) of the Internal Revenue Code of 1954 (relating to registration) is amended by striking out ", narcotics, marihuana," and ", 4722, 4753,".

(c) Section 6808 of the Internal Revenue Code of 1954 (relating to special provisions relating to stamps) is amended by striking out paragraph (8).

(d) Section 7012 of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out subsections (a) and (b).

(e) Section 7103(d)(3) of the Internal Revenue Code of 1954 (relating to bonds required with respect to certain products) is amended by striking out subparagraph (D).

72 Stat. 1429 (f) Section 7326 of the Internal Revenue Code of 1954 (relating to disposal of forfeited or abandoned property in special cases) is amended by striking out subsection (b).

70 Stat. 570 (g) (1) Section 7607 of the Internal Revenue Code of 1954 (relating to additional authority for Bureau of Narcotics and Bureau of Customs) is amended—

84 Stat. 1293 (A) by striking out "The Commissioner, Deputy Commissioner, Assistant to the Commissioner, and agents of the Bureau of Narcotics of the Department of the Treasury, and officers" and inserting in lieu thereof "Officers";

(B) by striking out in paragraph (2) "narcotic drugs (as defined in section 4731) or marihuana (as defined in section 4761)" and inserting in lieu thereof "narcotic drugs (as defined in section 102(16) of the Controlled Substances Act) or marihuana (as defined in section 102(15) of the Controlled Substances Act)"; and

(C) by striking out "BUREAU OF NARCOTICS AND" in the section heading.

(2) The item relating to section 7607 in the table of
70 Stat. 570 contents of subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out "BUREAU OF NARCOTICS and".

72 Stat. 1430 (h) Section 7609(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).

68A Stat. 905
26 U.S.C. 7641 (i) Section 7641 of the Internal Revenue Code of 1954 (relating to supervision of operations of certain manufacturers) is amended by striking out "opium suitable for smoking purposes,".

(j) Section 7651 of the Internal Revenue Code of 1954 (relating to administration and collection of taxes in possessions) is amended by striking out "and in sections 4705(b), 4735, and 4762 (relating to taxes on narcotic drugs and marihuana)".

(k) Section 7655(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).

(l) Section 2901(a) of title 28 of the United States Code is amended by striking out "as defined by section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined by section 102 (16) of the Controlled Substances Act". 80 Stat. 1438

(m) The last sentence of the second paragraph of section 584 of the Act of June 17, 1930 (19 U.S.C. 1584), is amended to read as follows: "As used in this paragraph, the terms 'opiate' and 'marihuana' shall have the same meaning given those terms by sections 102(17) and 102(15), respectively, of the Controlled Substances Act." 58 Stat. 722; 60 Stat. 39

(n) (1) The first section of the Act of August 7, 1939 (31 U.S.C. 529a), is repealed. Repeal 53 Stat. 1262

(2) Section 3 of such Act (31 U.S.C. 529d) is amended by striking out "or the Commissioner of Narcotics, as the case may be,".

(3) Section 4 of such Act (31 U.S.C. 529e) is amended by striking out "or narcotics" each place it appears.

(4) Section 5 of such Act (31 U.S.C. 529f) is amended by striking out "or narcotics" in the first sentence.

(o) Section 308(c)(2) of the Act of August 27, 1935 (40 U.S.C. 304m) is amended by striking out "Narcotic Drug Import and Export Act" and inserting in lieu thereof "Controlled Substances Act". 49 Stat. 880

(p) Paragraph (a) of section 301 of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. 3411) is amended by striking out "as defined in section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined in section 102(16) of the Controlled Substances Act." 80 Stat. 1444

(q) Paragraph (a) of the first section of the Act of July 15, 1954 (46 U.S.C. 239a) is amended to read as follows: 68 Stat. 484

"(a) The term 'narcotic drug' shall have the meaning given that term by section 102(16) of the Controlled Substances Act and shall also include marihuana as defined by section 102(15) of such Act."

(r) Paragraph (d) of section 7 of the Act of August 9, 1939 (49 U.S.C. 787) is amended to read as follows: 84 Stat. 1294

"(d) The term 'narcotic drug' shall have the meaning given that term by section 102(16) of the Controlled Substances Act and shall also include marihuana as defined by section 102(15) of such Act;" 53 Stat. 1292. "Narcotic drug"

(s) Paragraph (a) of section 4251 of title 18, United States Code, is amended by striking out "as defined in section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined in section 102(16) of the Controlled Substances Act". 80 Stat. 1442

(t) The first section of the Act of August 11, 1955 (21 U.S.C. 198a), is amended to read as follows: "That for the purpose of any investigation which, in the opinion of Investigations, subpoena power 69 Stat. 684

the Secretary of the Treasury, is necessary and proper to
62 Stat. 716 the enforcement of section 545 of title 18 of the United States Code (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 102 of the Controlled Substances Act), the Secretary of the Treasury may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place
Witnesses, travel expenses where he was served with subpena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States."

PENDING PROCEEDINGS

21 U.S.C. 171 note SEC. 1103. (a) Prosecutions for any violation of law occurring prior to the effective date of section 1101 shall not be affected by the repeals or amendments made by such section or section 1102, or abated by reason thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 1101 shall not be affected by the repeals or amendments made by such section or section 1102, or abated by reason thereof.

PROVISIONAL REGISTRATION

21 U.S.C. 957 note SEC. 1104. (a) (1) Any person—

(A) who is engaged in importing or exporting any controlled substance on the day before the effective date of section 1007,

(B) who notifies the Attorney General that he is so engaged, and

76 Stat. 794; 79 Stat. 231 21 Stat. 360 68A Stat. 555 26 U.S.C. 4722 (C) who is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act or under section 4722 of the Internal Revenue Code of 1954,

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 1008 for the import or export (as the case may be) of controlled substances.

(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of part A of this title.

*Ante*, p. 1285

(b) The provisions of section 304, relating to suspension and revocation of registration, shall apply to a provisional registration under this section. 84 Stat. 1295
*Ante*, p. 1255

(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

(1) the date on which such person has registered with the Attorney General under section 1008 or has had his registration denied under such section, or

(2) such date as may be prescribed by the Attorney General for registration of importers or exporters, as the case may be,

whichever occurs first.

EFFECTIVE DATES AND OTHER TRANSITIONAL PROVISIONS

SEC. 1105. (a) Except as otherwise provided in this section, this title shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment.

(b) Sections 1000, 1001, 1006, 1015, 1016, 1103, 1104, and this section shall become effective upon enactment.

(c)(1) If the Attorney General, pursuant to the authority of section 704(c) of title II, postpones the effective date of section 306 (relating to manufacturing quotas) for any period beyond the date specified in section 704(a) and such postponement applies to narcotic drugs, the repeal of the Narcotics Manufacturing Act of 1960 by paragraph (10) of section 1101(a) of this title is hereby postponed for the same period, except that the postponement made by this paragraph shall not apply to the repeal of sections 4, 5, 13, 15, and 16 of that Act. *Ante*, pp. 1284, 1257

(2) Effective for any period of postponement, by paragraph (1) of this subsection, of the repeal of provisions of the Narcotics Manufacturing Act of 1960, that Act shall be applied subject to the following modifications:

(A) The term "narcotic drug" shall mean a narcotic drug as defined in section 102(16) of title II, and all references, in the Narcotics Manufacturing Act of 1960, to a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 are amended to refer to a narcotic drug as defined by such section 102(16). "Narcotic drug" *Ante*, p. 1244

(B) On and after the date prescribed by the Attorney General pursuant to clause (2) of section 703(c) of title II, the requirements of a manufacturer's license with respect to a basic class of narcotic drug under the Narcotics Manufacturing Act of 1960, and of a registration under section 4722 of the Internal Revenue Code of 1954 as a prerequisite to issuance of such a license, shall be superseded by a requirement of actual registration (as distinguished from provisional registration) as a manufacturer of that class of drug under section 303(a) of title II. *Ante*, p. 1253

(C) On and after the effective date of the repeal of such section 4722 by section 1101(b)(3) of this title, but prior to the date specified in subparagraph (B) of this paragraph, the requirement of registration under such section 4722 as a prerequisite of a manufacturer's license under the Narcotics Manufacturing Act of 1960 shall be superseded by a requirement of either (i) actual registration as a manufacturer under section 303 of title II or (ii) provisional registration (by virtue of a preexisting registration under such section 4722) under section 703 of title II.

(d) Any orders, rules, and regulations which have been promulgated under any law affected by this title and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed.

# APPENDIX

## Section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970

### MEDICAL TREATMENT OF NARCOTIC ADDICTION

Sec. 4. The Secretary of Health, Education, and Welfare, after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress.

### Legislative History of the Comprehensive Drug Abuse Prevention and Control Act of 1970

Enacted October 27, 1970.

House Reports: No. 91–1444 (pts. 1 and 2) (Committee on Interstate and Foreign Commerce) and No. 91–1603 (committee of conference).

Senate Report No. 91–613 accompanying S. 3246 (Committee on the Judiciary).

Congressional Record, vol. 116 (1970):

Jan. 23, 24, 26–28, S. 3246 considered and passed Senate.
Sept. 23, 24, considered and passed House.
Oct. 6, 7, considered and passed Senate, amended.
Oct. 8, 14, House agreed to conference report.
Oct. 14, Senate agreed to conference report.

# MISCELLANEOUS LAWS RELATING TO INDIAN HEALTH

# INDIAN HEALTH

[PUBLIC LAW 568—83D CONGRESS,[1] AS AMENDED[2]]

* * * * *

AN ACT To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes

68 Stat. 674
42 U.S.C. 2001

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the health of Indians, are hereby transferred to, and shall be administered by, the Surgeon General[3] of the United States Public Health Service, under the supervision and direction of the Secretary of Health, Education, and Welfare: *Provided*, That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council.

42 U.S.C. 2002

SEC. 2. Whenever the health needs of the Indians can be better met thereby, the Secretary of Health, Education, and Welfare is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health, Education, and Welfare to a non-Indian entity

[1] Approved August 5, 1954.
[2] By P.L. 86–121, approved July 31, 1959.
[3] Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General to the Secretary of Health, Education, and Welfare.

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or organization under this Act unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided*, That if, following such transfer by the United States Public Health Service, the Secretary of Health, Education, and Welfare finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health, Education, and Welfare shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility.

42 U.S.C. 2003

SEC. 3. The Secretary of Health, Education, and Welfare is also authorized to make such other regulations as he deems desirable to carry out the provisions of this Act.

42 U.S.C. 2004

SEC. 4. The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Bureau of the Budget shall determine to relate primarily to the functions transferred to the Public Health Service of the Department of Health, Education, and Welfare hereunder, are transferred for use in the administration of the functions so transferred. Any of the personnel transferred pursuant to this Act which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service.

SEC. 5. The Act of April 3, 1952 (66 Stat. 35), and all other laws or parts of laws in conflict herewith, are hereby repealed.[4]

42 U.S.C. 2004(a)

SEC. 6. Sections 1 to 5, inclusive, of [5] this Act shall take effect July 1, 1955.

73 Stat. 267

SEC. 7. (a)[6] In carrying out his functions under this Act with respect to the provision of sanitation facilities and services, the Surgeon General is authorized—

(1) to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage- and waste-disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities, and lands;

(2) to acquire lands, or rights or interests therein, including sites, rights-of-way, and easements, and to

[4] That is, on the date of approval of P.L. 568, 83d Congress, August 5, 1954.
[5] These first six words added by sec. 2 of P.L. 86–121.
[6] Sec. 7 added by P.L. 86–121, approved July 31, 1959.

acquire rights to the use of water, by purchase, lease, gift, exchange, or otherwise, when necessary for the purposes of this section, except that no lands or rights or interests therein may be acquired from an Indian tribe, band, group, community, or individual other than by gift or for nominal consideration, if the facility for which such lands or rights or interests therein are acquired is for the exclusive benefit of such tribe, band, group, community, or individual, respectively;

(3) to make such arrangements and agreements with appropriate public authorities and nonprofit organizations or agencies and with the Indians to be served by such sanitation facilities (and any other person so served) regarding contributions toward the construction, improvement, extension and provision thereof, and responsibilities for maintenance thereof, as in his judgment are equitable and will best assure the future maintenance of facilities in an effective and operating condition; and

(4) to transfer any facilities provided under this section, together with appurtenant interests in land, with or without a money consideration, and under such terms and conditions as in his judgment are appropriate, having regard to the contributions made and the maintenance responsibilities undertaken, and the special health needs of the Indians concerned, to any State or Territory or subdivision or public authority thereof, or to any Indian tribe, group, band, or community or, in the case of domestic appurtenances and fixtures, to any one or more of the occupants of the Indian home served thereby.

(b) The Secretary of the Interior is authorized to transfer to the Surgeon General for use in carrying out the purposes of this section such interest and rights in federally owned lands under the jurisdiction of the Department of the Interior, and in Indian-owned lands that either are held by the United States in trust for Indians or are subject to a restriction against alienation imposed by the United States, including appurtenances and improvements thereto, as may be requested by the Surgeon General. Any land or interest therein, including appurtenances and improvements to such land, so transferred shall be subject to disposition by the Surgeon General in accordance with paragraph (4) of subsection (a): *Provided*, That, in any case where a beneficial interest in such land is in any Indian, or Indian tribe, band, or group, the consent of such beneficial owner to any such transfer or disposition shall first be obtained: *Provided further*, That where deemed appropriate by the Secretary of the Interior provisions shall be made for a reversion of title to such land if it ceases to be used for the purpose for which it is transferred or disposed.

(c) The Surgeon General shall consult with, and encourage the participation of, the Indians concerned, States and political subdivisions thereof, in carrying out the provisions of this section.

[Public Law 85–151, Approved August 16, 1957]

AN ACT To authorize funds available for construction of Indian health facilities to be used in the construction of community hospitals which will serve Indians and non-Indians

42 U.S.C. 2005

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the Surgeon General [1] of the Public Health Service, in carrying out his functions under the Act of August 5, 1954 (68 Stat. 674), with respect to the provision of health services to Indians in any particular area, determines, after consultation with such Indians, that the provision of financial assistance to one or more public or other nonprofit agencies or organizations for the construction of a community hospital constitutes a method of making needed hospital facilities available for such Indians which is more desirable and effective than direct Federal construction, he may provide such financial assistance from funds available for the construction of Indian health facilities for such Indians.

71 Stat. 370
71 Stat. 371
42 U.S.C. 2005a

Sec. 2. The amount of such financial assistance shall not exceed that portion of the reasonable cost of the construction project which is attributable to the Indian health needs, as determined by the Surgeon General: *Provided*, That in determining, for the purposes of this Act, the portion of the cost of the construction project attributable to Indian health needs, the Surgeon General shall take into account only those categories of Indians for which hospital and medical care, including outpatient care and field health services, is being provided by or at the expense of the Public Health Service on the date of enactment of this Act.

42 U.S.C. 2005b

Sec. 3. As a condition to providing assistance under section 1, the Surgeon General shall—

(a) require plans and specifications meeting such standards of construction and equipment as he may prescribe, and

(b) obtain such assurances and agreements as in his judgment are equitable in the light of the financial assistance provided under this Act and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under

[1] Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General to the Secretary of Health, Education, and Welfare.

title VI of the Public Health Service Act (42 U.S.C., ch. 6A, subch. IV). 60 Stat. 1041; 42 U.S.C. 291–291n

SEC. 4. The Surgeon General shall make payments under section 1 in advance or by way of reimbursement and in such installments consistent with construction progress, as he may determine. 42 U.S.C. 2005c

SEC. 5. Neither assistance provided under this Act for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under title VI of the Public Health Service Act or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under this Act shall not be included in the cost of construction in which the Federal Government shares under such title VI or other Federal Act. 42 U.S.C. 2005d

SEC. 6. As used in this Act:

(a) "Hospital" includes diagnostic or treatment centers and general hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(b) "Diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State. 42 U.S.C. 2005e

(c) "Nonprofit" means owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) "Construction" means construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities), including architects and engineering fees, but excluding legal fees, the cost of off-site improvements and the cost of the acquisition of land.

SEC. 7. Except as otherwise specifically provided, nothing in this Act shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital, with respect to which any funds have been or may be expended under this Act. 42 U.S.C. 2005f

# NARCOTIC ADDICT REHABILITATION ACT OF 1966, AS AMENDED

# NARCOTIC ADDICT REHABILITATION ACT

[PUBLIC LAW 89–793, APPROVED NOVEMBER 8, 1966]

AN ACT To amend title 18 of the United States Code to enable the courts to deal more effectively with the problem of narcotic addiction, and for other purposes. 80 Stat. 1438

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That titles I, II, III, and IV of this Act may be cited as the "Narcotic Addict Rehabilitation Act of 1966". Narcotic Addict Rehabilitation Act of 1966

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction.

# TITLE I—CIVIL COMMITMENT IN LIEU OF PROSECUTION [1]

62 Stat. 869

SEC. 101. Title 28 of the United States Code is amended by adding after chapter 173 thereof the following new chapter:

## Chapter 175. Civil Commitment and Rehabilitation of Narcotic Addicts


2901. Definitions.
2902. Discretionary authority of court; examination, report, and determination by court; termination of civil commitment.
2903. Authority and responsibilities of the Surgeon General; institutional custody; aftercare; maximum period of civil commitment; credit toward sentence.
2904. Civil commitment not a conviction; use of test results.
2905. Delegation of functions by Surgeon General; use of Federal, State, and private facilities.
2906. Absence of offer by the court to a defendant of an election under section 2902(a) or any determination as to civil commitment, not reviewable on appeal or otherwise.


### § 2901. Definitions

As used in this chapter—

68A Stat. 557; 74 Stat. 57
26 U.S.C. 4731

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Surgeon General" means the Surgeon General of the Public Health Service.

(c) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(d) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training,

[1] Title I of this Act took effect February 8, 1967, and applies to any case pending in a district court of the United States in which an appearance had not been made prior to such effective date.

and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(e) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed. 62 Stat. 684

(f) "Conviction" and "convicted" mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, but do not include a final judgment which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory.

(g) "Eligible individual" means any individual who is charged with an offense against the United States, but does not include—

(1) an individual charged with a crime of violence.

(2) an individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic drug.

(3) an individual against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an individual on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

(4) an individual who has been convicted of a felony on two or more occasions.

(5) an individual who has been civilly committed under this Act, under the District of Columbia Code, or any State proceeding because of narcotic addiction on three or more occasions.

### § 2902. Discretionary authority of court; examination, report, and determination by court; termination of civil commitment

(a) If the United States district court believes that an eligible individual is an addict, the court may advise him at his first appearance or thereafter at the sole discretion of the court that the prosecution of the criminal charge will be held in abeyance if he elects to submit to an immediate examination to determine whether he is an addict and is likely to be rehabilitated through treatment. In offering an individual an election, the court shall advise him that if he elects to be examined, he will be con-

fined during the examination for a period not to exceed sixty days; that if he is determined to be an addict who is likely to be rehabilitated, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from the examination or any treatment which may follow; that the treatment may last for thirty-six months; that during treatment, he will be confined in an institution and, at the discretion of the Surgeon General, he may be conditionally released for supervised aftercare treatment in the community; and that if he successfully completes treatment the charge will be dismissed, but if he does not, prosecution on the charge will be resumed. An individual upon being advised that he may elect to submit to an examination shall be permitted a maximum of five days within which to make his election. Except on a showing that a timely election could not have been made, an individual shall be barred from an election after the prescribed period. An individual who elects civil commitment shall be placed in the custody of the Attorney General or the Surgeon General, as the court directs, for an examination by the Surgeon General during a period not to exceed thirty days. This period may, upon notice to the court and the appropriate United States attorney, be extended by the Surgeon General for an additional thirty days.

(b) The Surgeon General shall report to the court the results of the examination and recommend whether the individual should be civilly committed. A copy of the report shall be made available to the individual and the United States attorney. If the court, acting on the report and other information coming to its attention, determines that the individual is not an addict or is an addict not likely to be rehabilitated through treatment, the individual shall be held to answer the abeyant charge. If the court determines that the individual is an addict and is likely to be rehabilitated through treatment, the court shall commit him to the custody of the Surgeon General for treatment, except that no individual shall be committed under this chapter if the Surgeon General certifies that adequate facilities or personnel for treatment are unavailable.

(c) Whenever an individual is committed to the custody of the Surgeon General for treatment under this chapter the criminal charge against him shall be continued without final disposition and shall be dismissed if the Surgeon General certifies to the court that the individual has successfully completed the treatment program. On receipt of such certification, the court shall discharge the individual from custody and dismiss the charge against him. If prior to such certification the Surgeon General determines that the individual cannot be further treated as a medical problem, he shall advise the court. The court shall thereupon terminate the commitment,

and the pending criminal proceeding shall be resumed.

(d) An individual committed for examination or treatment shall not be released on bail or on his own recognizance.

(e) Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18, United States Code.

**§ 2903. Authority and responsibilities of the Surgeon General; institutional custody; aftercare; maximum period of civil commitment; credit toward sentence**

62 Stat. 734; 77 Stat. 834

(a) An individual who is committed to the custody of the Surgeon General for treatment under this chapter shall not be conditionally released from institutional custody until the Surgeon General determines that he has made sufficient progress to warrant release to a supervisory aftercare authority. If the Surgeon General is unable to make such a determination at the expiration of twenty-four months after the commencement of institutional custody, he shall advise the court and the appropriate United States attorney whether treatment should be continued. The court may affirm the commitment or terminate it and resume the pending criminal proceeding.

(b) An individual who is conditionally released from institutional custody shall, while on release, remain in the legal custody of the Surgeon General and shall report for such supervised aftercare treatment as the Surgeon General directs. He shall be subject to home visits and to such physical examination and reasonable regulation of his conduct as the supervisory aftercare authority establishes, subject to the approval of the Surgeon General. The Surgeon General may, at any time, order a conditionally released individual to return for institutional treatment. The Surgeon General's order shall be a sufficient warrant for the supervisory aftercare authority, a probation officer, or any Federal officer authorized to serve criminal process within the United States to apprehend and return the individual to institutional custody as directed. If it is determined that an individual has returned to the use of narcotics, the Surgeon General shall inform the court of the conditions under which the return occurred and make a recommendation as to whether treatment should be continued. The court may affirm the commitment or terminate it and resume the pending criminal proceeding.

(c) The total period of treatment for any individual committed to the custody of the Surgeon General shall not exceed thirty-six months. If, at the expiration of such maximum period, the Surgeon General is unable to certify

that the individual has successfully completed his treatment program the pending criminal proceeding shall be resumed.

(d) Whenever a pending criminal proceeding against an individual is resumed under this chapter, he shall receive full credit toward the service of any sentence which may be imposed for any time spent in the institutional custody of the Surgeon General or the Attorney General or any other time spent in institutional custody in connection with the matter for which sentence is imposed.

**§ 2904. Civil commitment not a conviction; use of test results**

The determination of narcotic addiction and the subsequent civil commitment under this chapter shall not be deemed a criminal conviction. The results of any tests or procedures conducted by the Surgeon General or the supervisory aftercare authority to determine narcotic addiction may only be used in a further proceeding under this chapter. They shall not be used against the examined individual in any criminal proceeding except that the fact that he is a narcotic addict may be elicited on his cross-examination as bearing on his credibility as a witness.

**§ 2905. Delegation of functions by Surgeon General; use of Federal, State, and private facilities**

(a) The Surgeon General may from time to time make such provision as he deems appropriate authorizing the performance of any of his functions under this chapter by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

(b) The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person, will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals who elect civil commitment under this chapter.

**§ 2906. Absence of offer by the court to a defendant of an election under section 2902(a) or any determination as to civil commitment, not reviewable on appeal or otherwise**

The failure of a court to offer a defendant an election under section 2902(a) of this chapter, or a determination relative to civil commitment under this chapter shall not be reviewable on appeal or otherwise.

## TITLE II—SENTENCING TO COMMITMENT FOR TREATMENT [1]

SEC. 201. Title 18 of the United States Code is amended by adding after chapter 313 thereof the following new chapter: 62 Stat. 683

### CHAPTER 314—NARCOTIC ADDICTS

Sec.
4251. Definitions.
4252. Examination.
4253. Commitment.
4254. Conditional release.
4255. Supervision in the community.

### § 4251. Definitions

As used in this chapter—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction. 68A Stat. 557; 74 Stat. 57; 26 U.S.C. 4731

(b) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(c) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(d) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States,

[1] Title II of this Act took effect February 8, 1967, and applies to any case pending in any court of the United States in which sentence had not been imposed prior to such effective date.

the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

(e) "Conviction" and "convicted" mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, and do not include a final judgment which has been expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

(f) "Eligible offender" means any individual who is convicted of an offense against the United States, but does not include—

(1) an offender who is convicted of a crime of violence.

(2) an offender who is convicted of unlawfully importing or selling or conspiring to import or sell a narcotic drug, unless the court determines that such sale was for the primary purpose of enabling the offender to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.

(3) an offender against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an offender on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

(4) an offender who has been convicted of a felony on two or more prior occasions.

(5) an offender who has been committed under title I of the Narcotic Addict Rehabilitation Act of 1966, under this chapter, under the District of Columbia Code, or under any State proceeding because of narcotic addiction on three or more occasions.

**§ 4252. Examination**

If the court believes that an eligible offender is an addict, it may place him in the custody of the Attorney General for an examination to determine whether he is an addict and is likely to be rehabilitated through treatment. The Attorney General shall report to the court within thirty days; or any additional period granted by the court, the results of such examination and make any recommendations he deems desirable. An offender shall receive full credit toward the service of his sentence for any time spent in custody for an examination.

**§ 4253. Commitment**

(a) Following the examination provided for in section 4252, if the court determines that an eligible offender is

an addict and is likely to be rehabilitated through treatment, it shall commit him to the custody of the Attorney General for treatment under this chapter, except that no offender shall be committed under this chapter if the Attorney General certifies that adequate facilities or personnel for treatment are unavailable. Such commitment shall be for an indeterminate period of time not to exceed ten years, but in no event shall it exceed the maximum sentence that could otherwise have been imposed.

(b) If, following the examination provided for in section 4252, the court determines that an eligible offender is not an addict, or is an addict not likely to be rehabilitated through treatment, it shall impose such other sentence as may be authorized or required by law.

**§ 4254. Conditional release**

An offender committed under section 4253(a) may not be conditionally released until he has been treated for six months following such commitment in an institution maintained or approved by the Attorney General for treatment. The Attorney General may then or at any time thereafter report to the Board of Parole whether the offender should be conditionally released under supervision. After receipt of the Attorney General's report, and certification from the Surgeon General of the Public Health Service that the offender has made sufficient progress to warrant his conditional release under supervision, the Board may in its discretion order such a release. In determining suitability for release, the Board may make any investigation it deems necessary. If the Board does not conditionally release the offender, or if a conditional release is revoked, the Board may thereafter grant a release on receipt of a further report from the Attorney General.

**§ 4255. Supervision in the community**

An offender who has been conditionally released shall be under the jurisdiction of the Board as if on parole under the established rules of the Board and shall remain, while conditionally released, in the legal custody of the Attorney General. The Attorney General may contract with any appropriate public or private agency or any person for supervisory aftercare of a conditionally released offender. Upon receiving information that such an offender has violated his conditional release, the Board, or a member thereof, may issue and cause to be executed a warrant for his apprehension and return to custody. Upon return to custody, the offender shall be given an opportunity to appear before the Board, a member thereof, or an examiner designated by the Board, after which the Board may revoke the order of conditional release.

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## TITLE III—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE [1]

42 U.S.C. 3411
Definitions
68A Stat. 557;
74 Stat. 57
26 U.S.C. 4731

SEC. 301. For the purposes of this title, the term—

(a) [2] "Narcotic addict" means any individual who habitually uses any narcotic drug as defined in section 102(16) of the Controlled Substances Act so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts, and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.

(e) "Patient" means any person with respect to whom a petition has been filed by a United States attorney as provided under subsection (b) of section 302 of this title.

(f) "Posthospitalization program" shall mean any program providing for the treatment and supervision of a person established by the Surgeon General pursuant to section 307 of this title.

(g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(h) "United States" includes the Commonwealth of Puerto Rico.

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[1] Title III of this Act took effect February 8, 1967.
[2] Sec. 301(a) amended by sec. 1102(p) of P.L. 91–513.

(i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

42 U.S.C. 3412
Petition for treatment

SEC. 302. (a) Except as otherwise provided in section 311 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person be admitted to a hospital of the Service for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

Commitment

(b) After considering such petition, the United States attorney shall, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States district court to commit such person to a hospital of the Service for treatment as provided in this title. In making his determination with respect to the nonavailability of such facilities, the United States attorney shall consult with the Surgeon General and other appropriate State or local officials.

Examination of patient

(c) Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 303 of this title and for a hearing, if required, under section 304 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient by a United States marshal.

42 U.S.C. 3413
Right to counsel, etc.

SEC. 303. The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 302 of his right to have (1) counsel at every stage of the judicial proceedings under this title and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event shall such physician be entitled to participate in any such examination or

in the making of any report required under this section with respect to such examination. The court shall also advise such patient that if, after an examination and hearing as provided in this title, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including posthospitalization treatment and supervision) may last forty-two months; that during treatment he will be confined in an institution; that for a period of three years following his release from confinement he will be under the care and custody of the Surgeon General for treatment and supervision under a posthospitalization program established by the Surgeon General; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it shall determine, not to exceed thirty days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under this title. Copies of such reports shall be made available to the patient and his counsel.

42 U.S.C. 3414
Hearing

SEC. 304. (a) If both examining physicians (referred to in section 303) conclude in their respective written reports that the patient is not a narcotic addict, or is an addict not likely to be rehabilitated through treatment, the court shall immediately enter an order discharging the patient and dismissing the proceedings under this title. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of

the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

Judicial review

(b) In conducting any hearing under this title, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 303. Any patient with respect to whom a hearing is held under this title shall be entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this title shall be subject to review in conformity with the provisions of sections 1254 and 1291 of title 28 of the United States Code.

62 Stat. 928, 929

(c) Any patient with respect to whom a hearing has been set under this title may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

Witness fees

(d) Witnesses subpenaed by either party under the provisions of this title shall be paid the same fees and mileage as are paid to other witnesses in the courts of the United States.

42 U.S.C. 3415
Commitment by court order

Sec. 305. If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court shall order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Service. The Surgeon General shall submit to the court written reports with respect to such patient at such times as the court may direct. Such reports shall include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient.

42 U.S.C. 3416
Release

Sec. 306. Any patient committed to the care and custody of the Surgeon General pursuant to section 305 of this title shall be committed for a period of six months, and shall be subject to such posthospitalization program as may be established pursuant to section 307 of this title; except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable.

42 U.S.C. 3417
Posthospitalization treatment; Recommendations of Surgeon General

SEC. 307. (a) Whenever any patient under the care and custody of the Surgeon General pursuant to this title is to be released from confinement in accordance with the provisions thereof, the Surgeon General shall give notice of such pending release to the committing court within ten days prior thereto and shall, at the time of the patient's release, promptly return him to that court. The court, after considering the recommendations of the Surgeon General with respect to posthospitalization treatment for any such patient so returned, may place such patient under the care and custody of the Surgeon General for the three-year period immediately following the patient's release, for treatment and supervision under such posthospitalization program as the Surgeon General may direct.

(b) If, at any time during such three-year period, any patient (1) fails or refuses to comply with the directions and orders of the Surgeon General in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the Surgeon General to be again using narcotic drugs, the Surgeon General may order such patient's immediate return to the committing court which may recommit such patient to a hospital of the Service for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program in accordance with subsection (a) of this section.

42 U.S.C. 3418
Petition by patient

SEC. 308. The court, upon the petition of any patient after his confinement pursuant to this title for a period in excess of three months, shall inquire into the health and general condition of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it shall order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a posthospitalization program in accordance with the provisions of subsection (a) of section 307 of this title.

42 U.S.C. 3419

SEC. 309. Any determination by the court pursuant to this title that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test, or procedure to determine narcotic addiction of any patient under this title shall not be used against such patient in any criminal proceeding.

42 U.S.C. 3420
Physician, compellable witness

SEC. 310. Any physician conducting an examination under this title shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this title and the physician-patient privilege shall not be applicable.

42 U.S.C. 3421

SEC. 311. The provisions of this title shall not be applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision shall be applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

42 U.S.C. 3422

SEC. 312. Notwithstanding any other provision of this title, no patient shall be committed to a hospital of the Service under this title if the Surgeon General certifies that adequate facilities or personnel for treatment of such patient are unavailable.

42 U.S.C. 3423
Appointed physicians and counsel, compensation

SEC. 313. Physicians appointed by the court to examine any person pursuant to this title and counsel assigned by the court to represent any person in judicial proceedings under this title shall be entitled to reasonable compensation, in an amount to be determined by the court, to be paid, upon order of the court, out of such funds as may be provided by law.

42 U.S.C. 3424
Delegation of functions

SEC. 314 (a) The Surgeon General may from time to time make such provisions as he deems appropriate authorizing the performance of any of his functions under this title by any other officer or employees of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

(b) The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals pursuant to the provisions of this title.

42 U.S.C. 3425
Penalties

SEC. 315. Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this title, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18, United States Code.

42 U.S.C. 3426
62 Stat. 734; 77 Stat. 834

SEC. 316. Any person who knowingly makes any false statement to the United States attorney in any petition under section 302(a) of this title shall be subject to the penalty prescribed in section 1001 of title 18, United States Code.

62 Stat. 749

## TITLE IV—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

42 U.S.C. 3441

SEC. 401. The Surgeon General is authorized to establish, as an integral part of the program of treatment for narcotic addiction authorized by section 341 of the Public Health Service Act, outpatient services to (1) provide guidance and give psychological help and supervision to patients and other individuals released from hospitals of the Service after treatment for narcotic drug addiction, utilizing all available resources of local, public and private agencies, and (2) assist States and municipalities in developing treatment programs and facilities for individuals so addicted, including posthospitalization treatment programs and facilities for the care and supervision of narcotic addicts released after confinement under this or any other Act providing for treatment of drug addiction. The Surgeon General shall take into consideration in supplying such services the extent of drug addiction in the various States and political subdivisions thereof and the willingness of such States and subdivisions to cooperate in developing a sound program for the care, treatment, and rehabilitation of narcotic addicts.

42 U.S.C. 3442
Appropriation

SEC. 402.[1] * * *

[1] Sec. 402 repealed by sec. 303(b) of P.L. 90–574, which provided that there are authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants to continue the projects for which commitments were made under sec. 402(a) of the Narcotic Addict Rehabilitation Act of 1966, but such grants may be made only for the periods specified in such commitments for such projects.

## TITLE V—SENTENCING AFTER CONVICTION FOR VIOLATION OF LAW RELATING TO NARCOTIC DRUGS OR MARIHUANA[1]

70 Stat. 568
26 U.S.C. 7237

SEC. 501. Section 7237(d) of the Internal Revenue Code of 1954, as amended, is amended to read as follows:

(d) NO SUSPENSION OF SENTENCE; NO PROBATION; ETC.—Upon conviction—

(1) of any offense the penalty for which is provided in subsection (b) of this section, subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, or

70 Stat. 570, 571
21 U.S.C. 174, 176a, 176b
55 Stat. 584;
70 Stat. 571
21 U.S.C. 184a

(2) of any offense the penalty for which is provided in subsection (a) of this section, if it is the offender's second or subsequent offense,

the imposition or execution of sentence shall not be suspended, probation shall not be granted and in the case of a violation of a law relating to narcotic drugs, section 4202 of title 18, United States Code, and the Act of July 15, 1932 (47 Stat. 696; D.C. Code 24–201 and following), as amended, shall not apply.

65 Stat. 150

Board of Parole review of sentences

SEC. 502. The Board of Parole is hereby directed to review the sentence of any prisoner who, before the enactment of this Act, was made ineligible for parole by section 7237(d) of the Internal Revenue Code of 1954, as amended, and who was convicted of a violation of a law relating to marihuana. After conducting such review the Board of Parole may authorize the release of such prisoner on parole pursuant to section 4202 of title 18, United States Code. Action taken by the Board of Parole under this section shall not cause any prisoner to serve a longer term than would be served under his original sentence.

[1] Title V of this Act took effect February 8, 1967, and applies to any case pending in any court of the United States in which sentence had not yet been imposed.

## TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601.[1] * * *

SEC. 602. The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction.

SEC. 603. The table of contents to "PART III.—PRISONS AND PRISONERS" of title 18, United States Code, is amended by inserting after

313. Mental defectives ..... 4241

a new chapter reference as follows:

314. Narcotic addicts ..... 4251

and the table of contents to "PART VI.—PARTICULAR PROCEEDINGS" of title 28, United States Code, is amended by inserting after

173. Attachment in postal suits ..... 2710

a new chapter reference as follows:

175. Civil commitment and rehabilitation of narcotic addicts ..... 2901

Separability

SEC. 604. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Effective dates

SEC. 605. Title I of this Act shall take effect three months after the date of its enactment, and shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to such effective date. Titles II and V of this Act shall take effect three months after the date of its enactment and shall apply to any case pending in any court of the United States in which sentence has not yet been imposed as of such effective date. Title III of this Act shall take effect three months after the date of its enactment.

SEC. 606. The provisions of this Act shall be subject to the provisions of Reorganization Plan No. 3 of 1966.[2]

31 F.R. 8855
Appropriation

SEC. 607. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

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[1] Sec. 601 of P.L. 89–793 amends sec. 341 of the Public Health Service Act.

[2] Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General, and other officers of the Public Health Service, to the Secretary of Health, Education, and Welfare. The provisions of this Act should be read in the light of this transfer of statutory functions.

# FEDERAL CIGARETTE LABELING AND ADVERTISING ACT

# FEDERAL CIGARETTE LABELING AND ADVERTISING ACT

(Public Law 89–92, Approved July 27, 1965, As Amended)

AN ACT To regulate the labeling of cigarettes, and for other purposes

Federal Cigarette labeling and Advertising Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Federal Cigarette Labeling and Advertising Act".[1]

## DECLARATION OF POLICY

Sec. 2. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

(1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and

(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

## DEFINITIONS

Sec. 3. As used in this Act—

(1) The term "cigarette" means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(2) The term "commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin

[1] Sec. 2 of P.L. 91–222 added new sec. 2 through 12.

Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island. The term "State" includes any political division of any State.

(4) The term "package" means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

(5) The term "person" means an individual, partnership, corporation, or any other business or legal entity.

(6) The term "sale or distribution" includes sampling or any other distribution not for sale.

LABELING

SEC. 4.[2] It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health". Such statement shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

PREEMPTION

SEC. 5.[2] (a) No statement relating to smoking and health, other than the statement required by section 4 of this Act, shall be required on any cigarette package.

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[2] SEC. 3 of P.L. 91–222 establishes effective dates for provisions of this Act as follows:

"SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. Section 4 of the amendment made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act. All other provisions of the amendment made by this Act except where otherwise specified shall take effect on January 1, 1970." (P.L. 91–222 was enacted April 1, 1970.)

(b) No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

UNLAWFUL ADVERTISEMENTS

SEC. 6. After January 1, 1971, it shall be unlawful to advertise cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. Termination date.

FEDERAL TRADE COMMISSION

SEC. 7. (a) The Federal Trade Commission shall not take any action before July 1, 1971, with respect to its pending trade regulation rule proceeding relating to cigarette advertising. If at any time on or after July 1, 1971, the Federal Trade Commission determines it is necessary to take action with respect to such pending trade regulation rule proceeding, it shall notify the Congress of the determination. Such notification shall include the text of the trade regulation rule and a full statement of the basis for such determination. No trade regulation rule adopted in such proceeding may take effect until six months after the Commission has notified the Congress of the text of such rule, in order that the Congress may act if it so desires. Notification to Congress. Trade regulation effective date.

(b) Except as provided in subsection (a), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

(c) Nothing in this Act shall be construed to affirm or deny the Federal Trade Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarrette advertisement.

REPORTS

SEC. 8. (a) The Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than January 1, 1971, and annually thereafter concerning (A) current information in the health consequences of smoking, and (B) such recommendations for legislation as he may deem appropriate. Report to Congress.

(b) The Federal Trade Commission shall transmit a report to the Congress not later than January 1, 1971, Report to Congress

and annually thereafter, concerning (A) the effectiveness of cigarette labeling, (B) current practices and methods of cigarette advertising and promotion, and (C) such recommendations for legislation as it may deem appropriate.

CRIMINAL PENALTY

SEC. 9. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000.

INJUNCTION PROCEEDINGS

SEC. 10. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

Exemption

SEC. 11. Packages of cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

Non-applicability provision

SEPARABILITY

SEC. 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

# APPENDIX

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## Reorganization Plan No. 1 of 1953

(Approved April 1, 1953)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

5 U.S.C. Supp. I, Note

Section 1. *Creation of Department; Secretary.*— There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

Sec. 2.[1] *Under Secretary and Assistant Secretaries.*— There shall be in the Department an Under Secretary of Health, Education, and Welfare and five [2] Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe)

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[1] Sec. 2 amended and sec. 3 deleted by sec. 4 of P.L. 89–115.
[2] Sec. 1(b) of P.L. 89–234, provided for an additional Assistant Secretary of HEW, but did not specifically amend P.L. 83–13.



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shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

SEC. 3.[3] * * *.

SEC. 4. *Commissioner of Social Security.*—There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS–18 of the general schedule established by the Classification Act of 1949, as amended.

SEC. 5. *Transfers to the Department.*—All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

SEC. 6. *Performance of functions of the Secretary.*—The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

SEC. 7. *Administrative services.*—In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided*, That no professional or substantive functions vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

SEC. 8. *Abolitions.*—The Federal Security Agency (exclusive of the agencies thereof transferred by sec. 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. 1 (53 Stat.

[3] Effective June 25, 1966, under the provisions of section 6 of the Act; published pursuant to section 11 of the Act (63 Stat. 203; 5 U.S.C. 133z).

1423), the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No. 2 of 1946 (60 Stat. 1095), and the office of Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558), are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and the offices abolished by this section which are not otherwise provided for in this reorganization plan.

SEC. 9. *Interim provisions.*—The President may authorize the persons who immediately prior to the time this reorganization plan takes effect occupy the offices of Federal Security Administration, Assistant Security Administrator, assistant heads of the Federal Security Agency, the Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period of more than 60 days. While so acting, such persons shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

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## REORGANIZATION PLAN NO. 3 OF 1966

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [4]

### PUBLIC HEALTH SERVICE

SECTION 1. *Transfer of functions.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

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[4] Effective June 25, 1966, under the provisions of section 6 of the Act; published pursuant to section 11 of the Act (63 Stat. 203; 5 U.S.C. 133z).

SEC. 2. *Performances of transferred functions.*—The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SEC. 3. *Abolitions.*—(a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. *Incidental transfers.*—As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

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## REORGANIZATION PLAN NO. 1 OF 1968

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 7, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code

### NARCOTICS; DRUG ABUSE CONTROL

SECTION 1. *Transfer of functions from Treasury Department.*—There are hereby transferred to the Attorney General:

(a) Those functions of the Secretary of the Treasury which are administered through or with respect to the Bureau of Narcotics.

(b) All functions of the Bureau of Narcotics, of the Commissioner of Narcotics, and of all other officers, employees and agencies of the Bureau of Narcotics.

(c) So much of other functions or parts of functions of the Secretary of the Treasury and the Department of the Treasury as is incidental to or necessary for the performance of the functions transferred by paragraphs (a) and (b) of this section.

SEC. 2. *Transfer of functions from the Department of Health, Education, and Welfare.*—There are hereby transferred to the Attorney General:

(a) The functions of the Secretary of Health, Education, and Welfare under the Drug Abuse Control Amendments of 1956 (Public Law 89–74; 79 Stat. 226), except the function of regulating the counterfeiting of those drugs which are not controlled "depressant or stimulant" drugs.

(b) So much of other functions or parts of functions of the Secretary of Health, Education, and Welfare, and of the Department of Health, Education, and Welfare, as is incidental to or necessary for the performance of the functions transferred by paragraph (a) of this section.

SEC. 3. *Bureau of Narcotics and Dangerous Drugs.*—(a) There is established in the Department of Justice an agency which shall be known as the Bureau of Narcotics and Dangerous Drugs. The Bureau shall be headed by a Director who shall be appointed by the Attorney General to a position in the competitive service. The Director shall perform such duties as the Attorney General shall prescribe, and shall receive compensation at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) There are hereby established in the Department of Justice, in addition to the positions transferred to that Department by this Plan, four new positions, appointment to which shall be made by the Attorney General in the competitive service. Two of those positions shall have compensation at the rate now or hereafter provided for GS–18 positions of the General Schedule and the other two shall have compensation at the rate now or hereafter provided for GS–16 positions of the General Schedule (5 U.S.C. 5332). Each such position shall have such title and duties as the Attorney General shall prescribe.

SEC. 4. *Abolition.*—The Bureau of Narcotics in the Department of the Treasury, including the office of Commissioner of Narcotics (21 U.S.C. 161), is hereby abolished. The Secretary of the Treasury shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics not otherwise provided for in this reorganization plan.

SEC. 5. *Performance of transferred functions.*—The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or organizational entity of the Department of Justice.

SEC. 6. *Incidental transfers.*—(a) There are hereby transferred to the Department of Justice all of the positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, (1) of the Bureau of Narcotics, and (2) of the Bureau of Drug Abuse Control of the Department of Health, Education, and Welfare.

(b) There shall be transferred to the Department of Justice, at such time or times as the Director of the Bureau of the Budget shall direct, so much as the Director shall determine of other positions, personnel, property, records and unexpended balances of appropriations, allocations, and other funds of the Department of the Treasury and of the Department of Health, Education, and Welfare employed, used, held, available or to be made available in connection with functions transferred by the provisions of this reorganization plan.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in this section shall be carried out in such manner as he may direct and by such agencies as he shall designate.

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## REORGANIZATION PLAN NO. 3 OF 1970

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of chapter 9 of title 5 of the United States Code

### ENVIRONMENTAL PROTECTION AGENCY

SECTION 1. *Establishment of Agency.* (a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate.

SEC. 2. *Transfers to Environmental Protection Agency.* (a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof.

(2) (i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d–1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

(i) The National Air Pollution Control Administration,

(ii) The Environmental Control Administration:

(A) Bureau of Solid Waste Management,

(B) Bureau of Water Hygiene,

(C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products, including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended, and the Public Health Service Act, as amended.

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970, 83 Stat. 855), as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8) (i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k), (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(*l*) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(*l*)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. 466a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. 466f), together with its functions and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e, together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

SEC. 3. *Performance of transferred functions.* The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

SEC. 4. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall

deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. *Interim officers.* (a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. *Abolitions.* (a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. 466–1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

SEC. 7.[1] Effective date. The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

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[1] Effective Dec. 2, 1970.

## TABLE A.—SOME MAJOR AMENDMENTS OF THE PUBLIC HEALTH SERVICE ACT SINCE 1944 [1]

| Title [2] | Public law [3] | Purpose of the act [4] |
|---|---|---|
| 1. National Mental Health Act | P.L. 79–487, July 3, 1946 (60 Stat. 421) | To amend the PHS Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes. |
| 2. Hospital Survey and Construction Act | P.L. 79–725, Aug. 13, 1946 (60 Stat. 1040) | To amend the PHS Act to authorize grants to the States for surveying their hospitals and public health centers and for planning construction of additional facilities, and to authorize grants to assist in such construction. |
| 3. National Heart Act | P.L. 80–655, June 16 1948 (62 Stat. 464) | To amend the PHS Act to support research and training in diseases of the heart and circulation, and to aid the States in the development of community programs for the control of these diseases, and for other purposes. |
| 4. National Dental Research Act | P.L. 80–755, June 24, 1948 (62 Stat. 598) | To amend the PHS Act to provide for, foster, and aid in coordinating research relating to dental diseases and conditions, and for other purposes. |
| 5. Hospital Survey and Construction Amendments of 1949 | P.L. 81–380, Oct. 25, 1949 (63 Stat. 898) | To amend the Hospital Survey and Construction Act (title VI of the PHS Act), to extend its duration and provide greater financial assistance in the construction of hospitals, and for other purposes. |
| 6. (No authorized title—act authorizes establishment of research institutes; also adds sec. 208(g) to PHS Act.) | P.L. 81–692, Aug. 15, 1950 (64 Stat. 443) | To amend the PHS Act to support research and training in matters relating to arthritis and rheumatism multiple sclerosis. cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy, and other diseases. |
| 7. Medical Facilities Survey and Construction Act of 1954 | P.L. 83–482, July 12, 1954 (68 Stat. 461) | To amend the hospital survey and construction provisions of the PHS Act to provide assistance to the States for surveying the need for diagnostic or treatment centers, for hospitals for the chronically ill and impaired, for rehabilitation facilities, and for nursing homes, and to provide assistance in the construction of such facilities through grants to public and nonprofit agencies, and for other purposes. |
| 8. National Health Survey Act | P.L. 84–652, July 3, 1956 (70 Stat. 489) | To provide for a continuing survey and special studies of sickness and disability in the United States, and for periodic reports of the results thereof, and for other purposes. |
| 9. Alaska Mental Health Enabling Act | P.L. 84–830, July 28, 1956 (70 Stat. 709) | To confer upon Alaska autonomy in the field of mental health, transfer from the Federal Government to the Territory the fiscal and functional responsibilities for the hospitalization of committed menta patients, and for other purposes. (Includes PHS grants to Alaska for mental health program.) |
| 10. Health Research Facilities Act of 1956 | P.L. 84–835, July 30, 1956 (70 Stat. 717) | To amend the PHS Act so as to provide for grants-in-aid to non-Federal public and nonprofit institutions for the constructing and equipping of facilities for research in the sciences related to health. |
| 11. National Library of Medicine Act | P.L. 84–941, Aug. 3, 1956 (70 Stat. 960) | To amend title III of the PHS Act, and for other purposes. (Establishes in the PHS the National Library of Medicine.) |
| 12. Health Amendments Act of 1956 | P.L. 84–911, Aug. 2, 1956 (70 Stat. 923) | To improve the health of the people by assisting in increasing the number of adequately trained professional and practical nurses and professional public health personnel assisting in the development of improved methods of care and treatment in the field of mental health, and for other purposes. |
| 13. Public Health Service Commissioned Corps Personnel Act of 1960. | P.L. 86–415, Apr. 8, 1960 (74 Stat. 32) | To strengthen the Commissioned Corps of the Public Health Service through revision and extension of some of the provisions relating to retirement, appointment of personnel, and other related personnel matters, and for other purposes. |
| 14. International Health Research Act of 1960 | P.L. 86–610, July 12, 1960 (74 Stat. 364) | * * * to provide for international cooperation in health research, research training, and research planning, and for other purposes. (Note: By error there was left in the purpose clause the phrase "to establish a National Institute for International Health and Medical Research" although as enacted, the law carried no such provision. We have used asterisks in lieu of that phrase to prevent confusion.) |

TABLE A.—SOME MAJOR AMENDMENTS OF THE PUBLIC HEALTH SERVICE ACT SINCE 1944 [1]—Continued

| Title [2] | Public law [3] | Purpose of the act [4] |
|---|---|---|
| 15. Community Health Services and Facilities Act of 1961 | P.L. 87–395, Oct. 5, 1961 (75 Stat. 824) | To assist in expanding and improving community facilities and services for the health care of aged and other persons, and for other purposes. |
| 16. (No authorized title—provides for PHS grants for family health clinics for migratory workers). | P.L. 87–692, Sept. 25, 1962 (76 Stat. 592) | To amend title III of the PHS Act to authorize grants for family clinics for domestic agricultural migratory workers, and for other purposes. |
| 17. (No authorized title—provides for establishment of an Institute of Child Health and Human Development and an Institute of General Medical Sciences; extends for 3 years research facilities construction program of title VII, PHS Act). | P.L. 87–838, Oct. 17, 1962 (76 Stat. 1072) | To amend the PHS Act to provide for the establishment of an Institute of Child Health and Human Development, to extend for 3 additional years the authorization for grants for the construction of facilities for research in the sciences related to health, and for other purposes. |
| 18. Vaccination Assistance Act of 1962 | P.L. 87–868, Oct. 23, 1962 (76 Stat. 1155) | To assist States and communities to carry out intensive vaccination programs designed to protect their populations, particularly all preschool children, against poliomyelitis, diphtheria, whooping cough, and tetanus. |
| 19. Health Professions Educational Assistance Act of 1963 | P.L. 88–129, Sept. 24, 1963 (77 Stat. 164) | To increase the opportunities for training of physicians, dentists, and professional public health personnel, and for other purposes. |
| 20. Sec. 101 of the Mental Retardation Facilities and Community Health Centers Construction Act of 1963. | P.L. 88–164, Oct. 31, 1963 (77 Stat. 282) | To provide centers for research on mental retardation and related aspects of human development. |
| 21. Hospital and Medical Facilities Amendments of 1964 | P.L. 88–443, Aug. 18, 1964 (78 Stat. 447) | To improve the public health through revising, consolidating, and improving the hospital and other medical facilities provisions of the Public Health Service Act. |
| 22. Nurse Training Act of 1964 | P.L. 88–581, Sept. 4, 1964 (78 Stat. 908) | To amend the Public Health Service Act to increase the opportunities for training professional nursing personnel, and for other purposes. |
| 23. Community Health Services Extention Amendments of 1965 | P.L. 89–109, Aug. 5, 1965 (79 Stat. 435) | To extend and otherwise amend certain expiring provisions of the Public Health Service Act relating to community health services, and for other purposes. |
| 24. Health Research Facilities Amendments of 1965 | P.L. 89–115, Aug. 9, 1965 (79 Stat. 448) | To amend the Public Health Service Act provisions for construction of health research facilities by extending the expiration date thereof and providing increased support for the program, to authorize additional Assistant Secretaries in the Department of Health, Education, and Welfare, and for other purposes. |
| 25. Heart Disease, Cancer, and Stroke Amendments of 1965 | P.L. 89–239, Oct 6, 1965 (79 Stat. 926) | To assist in combating heart disease, cancer, stroke, and related diseases. |
| 26. Health Professions Educational Assistance Amendments of 1965. | P.L. 89–290, Oct. 22, 1965 (79 Stat. 1052) | To improve the educational quality of schools of medicine, dentistry, and osteopathy, to authorize grants under that Act to such schools for the awarding of scholarships to needy students, and to extend expiring provisions of that Act for student loans and for aid in construction of teaching facilities for students in such schools and schools for other health professions, and for other purposes. |
| 27. Medical Library Assistance Act of 1965 | P.L. 89–291, Oct. 22, 1965 (79 Stat. 1059) | To provide for a program of grants to assist in meeting the need for adequate medical library services and facilities. |
| 28. Comprehensive Health Planning and Public Health Services Amendments of 1966. | P.L.89–749, Nov. 3, 1966 | To amend the Public Health Service Act to promote and assist in the extension and improvement of comprehensive health planning and public health services, to provide for a more effective use of available Federal funds for such planning and services, and for other purposes. |
| 29. Allied Health Professions Personnel Training Act of 1966 | P.L. 89–751, Nov. 3, 1966 | To amend the Public Health Service Act to increase the opportunities for training of medical technologists and personnel in other allied health professions, to improve the educational quality of the schools training such allied health professions personnel, and to strengthen and improve the existing student loan programs for medical, osteopathic, dental, podiatry, pharmacy, optometric, and nursing students, and for other purposes. |

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|---|---|---|
| 30. Partnership for Health Amendments of 1967 | P.L. 90–174, Dec. 5, 1967 | To amend the Public Health Service Act to extend and expand the authorizations for grants for comprehensive health planning and services, to broaden and improve the authorization for research and demonstrations relating to the delivery of health services, to improve the performance of clinical laboratories, and to authorize cooperative activities between the Public Health Service hospitals and community facilities, and for other purposes. |
| 31. Health Manpower Act of 1968 | P.L. 90–490, August 16, 1968 | To amend the Public Health Service Act to extend and improve the programs relating to the training of nursing and other health professions and allied health professions personnel, the program relating to student aid for such personnel, and the program relating to health research facilities, and for other purposes. |
| 32. Health Services Amendments of 1968 | P.L. 90–574, Oct. 15, 1968 | To amend the Public Health Service Act so as to extend and improve the provisions relating to regional medical programs, to extend the authorization of grants for health of migratory agricultural workers, to provide for specialized facilities for alcoholics and narcotic addicts, and for other purposes. |
| 33. (No short title—extends authorizations for grants to schools of Public Health). | P.L. 91–208, Mar. 12, 1970 | To amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, project grants for graduate training in public health and traineeships for professional public health personnel. |
| 34. (No short title—extends the Migrant Health Act) | P.L. 91–209, Mar. 12, 1970 | To amend the Public Health Service Act to extend the program of assistance for health services for domestic migrant agricultural workers and for other purposes. |
| 35. Community Mental Health Centers Amendments of 1970 | P.L. 91–211, Mar. 13, 1970 | To amend the Community Mental Health Centers Act to extend and improve the program of assistance under that Act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes. |
| 36. Medical Library Assistance Extension Act of 1970 | P.L. 91–212, Mar. 13, 1970 | To amend the Public Health Service Act to improve and extend the provisions relating to assistance to medical libraries and related instrumentalities, and for other purposes. |
| 37. Medical Facilities Construction and Modernization Amendments of 1970. | P.L. 91–296, June 30, 1970 | To amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such Act, and for other purposes. |
| 38. Communicable Disease Control Amendments of 1970 | P.L. 91–464, Oct. 16, 1970 | To amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance. |
| 39. Comprehensive Drug Abuse Prevention and Control Act of 1970. | P.L. 91–513, Oct. 27, 1970 | To amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse. |
| 40. (No short title—amends titles III and IX of the Public Health Service Act). | P.L. 91–515, Oct. 30, 1970 | To amend titles III and IX of the Public Health Service Act so as to revise, extend, and improve the programs of research, investigation, education, training, and demonstrations authorized thereunder, and for other purposes. |
| 41. Developmental Disabilities Services and Facilities Construction Amendments of 1970. | P.L. 91–517, Oct. 30, 1970 | To amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes. |
| 42. Health Training Improvement Act of 1970 | P.L. 91–519, Nov. 2, 1970 | To amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes. |
| 43. Family Planning Services and Population Research Act of 1970. | P.L. 91–572, Dec. 24, 1970 | To promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes. (Adds Title X to the Public Health Service Act.) |

TABLE A.—SOME MAJOR AMENDMENTS OF THE PUBLIC HEALTH SERVICE ACT SINCE 1944 [1]—Continued

| Title [2] | Public law [3] | Purpose of the act [4] |
|---|---|---|
| 44. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. | P.L. 91–616, Dec. 31, 1970 | To provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism. |
| 45. Emergency Health Personnel Act of 1970 | P.L. 91–623, Dec. 31, 1970 | To amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes. |

[1] This table includes only major amendments which have made significant or extensive changes of the P.H.S. Act. It does not purport to be a comprehensive listing of all amendments of that Act.

[2] As authorized in the Act, except where noted.

[3] Since the 85th Cong., each public law has carried a prefix which is the number of the Congress in which it was enacted. Thus, P.L. 85–480 is Public Law 480 of the 85th Cong. For convenience, the references to public laws contained herein have been conformed to this new practice. The dates cited herein are the dates of Presidential approval of the Act, and are not necessarily the dates of effectiveness of specific provisions of law. The parenthetical citations are to the United States Statutes at Large.

[4] Quoted from the purpose clause of the public law.

**Public Health Service:**

- **Short Title (Title I)**
- **Administration (Title II)**
- **General Powers and Duties (Title III)**
- **National Research Institutes (Title IV)**
- **Miscellaneous (Title V)**
- **Hospital Construction (Title VI)**
- **Health Research and Teaching Facilities (Title VII)**
- **Nurse Training (Title VIII)**
- **Heart, Cancer and Stroke (Title IX)**
- **Population Research and Family Planning (Title X)**

**Other Laws:**

- **Family Planning and Population Research**
- **Alcohol Abuse; Alcoholism Prevention, Treatment and Rehabilitation**
- **National Housing Act Mortgage Insurance**
- **Mental Retardation and Mental Health**
- **Controlled Substances**
- **Controlled Substances Import and Export**
- **Indian Health**
- **Narcotic Addict Rehabilitation**
- **Federal Cigarette Labeling and Advertising**
- **Appendix**

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